

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, .	Case No. 2:22-cr-00035-MAK-1
Plaintiff, .	
v. .	U.S. Courthouse
ANDREW WOLF, .	601 Market Street
Defendant. .	Philadelphia, PA
.	February 16, 2023
	9:07 a.m.

PARTIAL TRANSCRIPT OF SENTENCING HEARING
BEFORE HONORABLE MARK A. KEARNEY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 PROCEEDINGS

2 THE BAILIFF: All rise. Court is now in session.

3 The Honorable Mark A. Kearney presiding.

4 THE COURT: Good morning.

5 MR. DONATO: Good morning, Your Honor.

6 MS. HARRELL: Good morning, Your Honor.

7 THE COURT: Please be seated. Good morning.

8 We're here this morning in the matter of the
9 United States v. Andrew Wolf. May I have the appearance,
10 first of the United States.

11 MS. HARRELL: Yes. Good morning, Your Honor.
12 Kelly Harrell on behalf of the United States, and with me at
13 counsel table is Special Agent James Sajak (phonetic) from
14 FBI.

15 THE COURT: Welcome. Thank you, sir.

16 MS. HARRELL: Good morning, Your Honor.

17 THE COURT: And on behalf of Mr. Wolf?

18 MR. DONATO: Good morning, Your Honor. Arthur
19 Donato for Mr. Wolf, ID number 31666. And with me is
20 Heather J. Mattes.

21 THE COURT: Thank you. Welcome.

22 MS. MATTES: Thank you, sir.

23 THE COURT: And thank you all counsel for their
24 terrific sentencing memorandum. They were very helpful.
25 Thank you very much.

1 Mr. Donato, do you expect Mr. Wolf will wish to
2 allocute today?

3 MR. DONATO: Yes, sir, he will.

4 THE COURT: Thank you. Kim, would you kindly --
5 Madam Deputy, would you kindly swear Mr. Wolf.

6 Mr. Wolf, please rise.

7 THE CLERK: Please raise your right hand and state
8 your name for the record.

9 THE DEFENDANT: Andrew Wolf.

10 THE CLERK: Do you swear that the testimony you
11 shall give the Court shall be the truth, the whole truth,
12 and nothing but the truth, so help you God?

13 ANDREW WOLF, DEFENDANT, SWORN

14 THE DEFENDANT: I do.

15 THE CLERK: Thank you.

16 THE COURT: Thank you, sir.

17 Ms. Harrell, have you notified under the Victims'
18 Act all the victims of these offense?

19 MS. HARRELL: Yes, Your Honor.

20 THE COURT: Okay. How did you do so?

21 MS. HARRELL: Your Honor, I spoke to most of the
22 parents of the victims myself by phone, along with Agent
23 Sajak. Agent Sajak had other conversations with some sets
24 of parents, and one family was notified via the victim
25 notification system because we don't have contact

1 information for them currently.

2 THE COURT: Okay. Have you notified the National
3 Center?

4 MS. HARRELL: Yes. Yes, we have, Your Honor.

5 THE COURT: All right. Thank you.

6 Mr. Wolf, do you know why you're in court today?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. Have you been under the
9 influence of any illegal drugs or alcohol in the last 72
10 hours?

11 THE DEFENDANT: No.

12 THE COURT: Have you been -- have you taken any
13 medications?

14 THE DEFENDANT: No, I haven't.

15 THE COURT: Have you taken any medication to
16 affect your ability to answer our questions today?

17 THE DEFENDANT: No.

18 THE COURT: Other than natural anxiety of being in
19 a courtroom and in a sentencing hearing, which everyone
20 appreciates, are you able to answer our questions today in a
21 competent matter in your view?

22 THE DEFENDANT: Yes, I am.

23 THE COURT: Okay. I'm going to refresh us a
24 little bit why we're here today, Mr. Wolf, to give us some
25 perspective.

1 If you hear anything that -- if you hear anything
2 at all today that you don't understand what I'm saying,
3 please tap your counsel, and they'll interrupt me. Okay?
4 It's most important that you understand what I'm saying
5 today. Okay?

6 THE DEFENDANT: Okay.

7 THE COURT: We're here today arising from a tip on
8 July 12th, 2021 from the National Center for Missing &
9 Exploited Children, which learned from Dropbox of an email
10 address awolf@sch.org that uploaded a file depicting
11 suspected child pornography on June 29th, 2021.

12 That video was seven minutes long, with two naked
13 boys, approximately 10 to 14 years old, masturbating each
14 other and then penetrating each other with fingers and
15 penises.

16 That led to a further investigation. It
17 eventually led to a search warrant at your residence, which
18 was executed on October 7th, 2021.

19 You were then arrested. In that discussion, you
20 made some statements that we may talk about later concerning
21 your understanding of your culpability and your inability to
22 fully recognize the conduct you were engaged in.

23 You've been in custody since October 7th, 2021
24 across the street. So that's approximately four months --
25 approximately 16 months or so, a little more than 16 months.

1 You have been fully compliant with all conditions.
2 In fact, you have been helpful to other persons in the
3 facility in helping them get a GED, etc.

4 During that investigation, though, from the FBI,
5 there was an investigation of your phone, which led to a
6 gentleman named Kray Strange from Carthage, New York, who
7 participated in your conduct. That's an issue today.

8 The United States arrested Mr. Strange on
9 January 5, 2022. Mr. Strange is awaiting sentencing.
10 Mr. Strange is on the autism spectrum, unable to -- possibly
11 unable -- being evaluated and possibly unable to understand
12 or appreciate the consequences of his actions, possibly,
13 although it's more having to do with the term of sentencing
14 than his ability to understand his conduct.

15 Your conduct led the grand jury to return an
16 indictment against you and Mr. Strange on February 3rd,
17 2022. It's important you understand today, Mr. Wolf, that I
18 have an obligation to address all eight counts.

19 And so, in Count I, the grand jury charged you
20 with conspiracy to manufacture child pornography from May 2,
21 2020 to October 7th, 2021. That's the day of your arrest.

22 That Congress tells me, the people tell us, the
23 people we elect tell us, that that requires a guilty plea.
24 A conviction requires a mandatory 15-year sentence up to 30
25 years in prison for that conspiracy, along with a up to

1 \$250,000 fine.

2 Grand jury also charged you with in Counts 2
3 through 8 and identified various victims, the manufacturer,
4 an attempted manufacturer of child pornography and aiding
5 and abetting from and depending on the count, August 29 of
6 2020 and up to September 7 of 2021.

7 Each one of those counts has a mandatory 15-year
8 sentence, up to 30 years in prison on each count, with a
9 mandatory \$250,000 fine. Excuse, not mandatory. The fine
10 of \$250,000 per count.

11 You recognized your guilt and you came before us
12 on June 23, 2022, if you remember that. And we had all this
13 discussions, how sentencing works at that stage.

14 You also, on the same day, had an opportunity to
15 meet with our officer and he prepared for us a detailed pre-
16 sentence investigation report.

17 Mr. Donato, is that your understanding of the
18 facts leading up to today -- of the chronology leading up to
19 today?

20 MR. DONATO: Yes. That's my understanding of the
21 chronology, Your Honor.

22 THE COURT: Thank you. Ms. Harrell, is that your
23 understanding of the chronology leading to today?

24 MS. HARRELL: Yes, Your Honor.

25 THE COURT: Okay. So, we begin, Mr. Wolf, as I

1 told you we would, the way sentencing works in the United
2 States, is we address really three steps. Well, four steps.

3 The first step is I tell you what Congress sets
4 the -- the people we elect set the penalty, the maximum
5 penalty. And then there's a great amount of discretion
6 given to judicial officers.

7 The way we exercise that discretion is by a
8 variety of factors that Congress gives us in Section 3553 of
9 Title 18 United States Code. And those factors, among
10 others, include our evaluation of something called
11 guidelines.

12 And those guidelines, I talked about in your plea,
13 identify for the history, all history of the entire cases
14 across the United States every year.

15 They canvas and they study what judges are doing
16 around the country. They recommend what judges should be
17 doing around the country.

18 It'd be unfair to you to get a much greater
19 sentence because you're in front of me. It'd be unfair to
20 others for you to get a much lesser sentence because you're
21 in front of me as opposed to a person down the hall or a
22 person somewhere else in the country.

23 And so we look at these guidelines, but they're
24 not mandatory on me. I don't have to follow them. I have
25 to consider them, and I will consider them, and we'll talk

1 about them.

2 In this case, they're extraordinarily high. So,
3 in this case, it is impossible to enter a guideline sentence
4 given our mortal nature. But I look at those and consider
5 the factors that go into them.

6 We begin this by asking our officer who came and
7 interviewed you to prepare a pre-sentence investigation
8 report. And that report is very detail -- as you've seen
9 maybe, is detailed and provides a tremendous amount of
10 information to me.

11 I don't have the opportunity, Mr. Wolf, to
12 interview you, and so I rely extensively on those reports as
13 well as the memos given -- memorandum given us by counsel.

14 And so, the first thing I turn to is the pre-
15 sentence report and ask the United States, have you received
16 a copy of the revised February 9th pre-sentence
17 investigation report and whether you have any corrections to
18 the report.

19 MS. HARRELL: I did receive a copy, Your Honor,
20 and I don't have any corrections.

21 THE COURT: Do you believe that the financial
22 numbers represented on that report of February 9 are
23 accurate?

24 MS. HARRELL: Yes, as far as the Government knows,
25 Your Honor.

1 THE COURT: Okay. Mr. Donato, you had a chance to
2 see the February 9 revised pre-sentence investigation
3 report?

4 MR. DONATO: Yes, Your Honor. And we went over it
5 with Mr. Wolf.

6 THE COURT: Okay. Do you think there's any
7 corrections?

8 MR. DONATO: I don't think so.

9 THE COURT: Do you believe the financial numbers
10 represented in that report representing Mr. Wolf's assets
11 are accurate as of today?

12 MR. DONATO: Yes, sir. I do.

13 THE COURT: Do you believe there's any movement of
14 those assets since February 9th?

15 MR. DONATO: I have no reason to believe that.

16 THE COURT: Okay. Thank you, sir. Mr. Wolf, have
17 you had a chance to review this pre-sentence investigation
18 report?

19 THE DEFENDANT: I have, Your Honor.

20 THE COURT: Okay. You had a chance to talk about
21 it with your counsel?

22 THE DEFENDANT: Yes.

23 THE COURT: Did you have a chance to review it
24 with your counsel before I saw it?

25 THE DEFENDANT: Yes.

1 THE COURT: You had a chance to speak to the
2 officer about it. Is that correct? A probation officer?

3 THE DEFENDANT: Not after it was --

4 THE COURT: No, no. Before.

5 THE DEFENDANT: What --

6 THE COURT: You had a chance to interview with him,
7 right?

8 THE DEFENDANT: Interview, yes. Yes.

9 THE COURT: Okay. And do you -- have you -- do
10 you know any corrections to the report?

11 THE DEFENDANT: No, not with the revised version.

12 THE COURT: Okay. Are the financial numbers
13 represented on that report accurate as of today to your
14 knowledge?

15 THE DEFENDANT: I believe so.

16 THE COURT: Did your counsel answer all your
17 questions about the report before I saw it?

18 THE DEFENDANT: He did, yes.

19 THE COURT: Okay. Do you need more time to talk
20 about the report with your counsel?

21 THE DEFENDANT: No, sir.

22 THE COURT: Okay. Are you satisfied with the
23 representation provided by your attorneys?

24 THE DEFENDANT: Yes, I am.

25 THE COURT: Okay. So, I told you a moment ago

1 what Congress tells me generally speaking for Count 1 --
2 Counts 1, 2, and so on, to Count 8.

3 I just want to refresh this here because they have
4 different -- there's a different idea here. I want to make
5 sure we're all talking about it.

6 Counts 1 to 7 all have a minimum of 15 -- Congress
7 says a minimum of 15 years and a maximum of 30 years per
8 count. But those counts can be concurrent. In other words,
9 they don't have to be consecutive.

10 So, while easy math that you could teach me would
11 tell me that 30 times 8 would be 240 years, that's not
12 necessarily true because they don't have to be consecutive.
13 They can be concurrent. One or more could be concurrent,
14 for example.

15 For the same reason, it's not 8 times 15. They
16 could be concurrent.

17 In addition, Congress tells me that I must impose
18 a term of supervised release of five years up to life per
19 count. Again, that could be concurrent.

20 Congress also tells me I can impose a fine of up
21 to \$250,000 and I must impose a special assessment of \$800,
22 being \$100 per count.

23 In addition, Congress has told us, federal judges,
24 that we must consider a restitution of \$5,000 per count for
25 any non-indigent person who's convicted of these offenses

1 under something called the Justice for Victims of
2 Trafficking Act.

3 In addition, I must consider mandatory restitution
4 under the Amy, Vicky, and Andy Child Pornography Victim
5 Assistance Act after considering factors under Section 3553.

6 In addition, Congress authorizes under Section
7 3664 -- not authorizes. Directs us to consider restitution
8 and shall reimburse the victim of any trafficking of their
9 pictures based on a variety of factors provided in Section
10 3663A and 3664 of Title 18 United States Code, and in
11 addition, cost of prosecution.

12 So, what you're looking at Mr. Wolf is two types
13 of -- I'm sure you had a chance talk about, two types of
14 penalty sentence. One, of course, is jail and the second is
15 financial. It's a fine. Restitution and fines. And that's
16 how it works.

17 So, we start in many ways with what jail is.
18 That's what everybody understands the beginning.

19 And I'm going to ask first, Ms. Harrell, if you
20 agree with the offense level of 43 as calculated over 7
21 different groups of offenses identified by the officer in
22 the report, along with the criminal history category of 1?

23 MS. HARRELL: Yes, Your Honor.

24 THE COURT: Okay. Mr. Donato, do you agree with
25 the offense level of 43 spread out as calculated over 7

1 different groups of offenses --

2 MR. DONATO: Yes, sir.

3 THE COURT: -- and history category of 1?

4 MR. DONATO: Yes, sir.

5 THE COURT: Okay. I have separately reviewed it,
6 Mr. Wolf. It's my obligation to take the officer's report,
7 study it, to review it, to look and make sure that the
8 calculation is accurate.

9 In this case, as you saw, it would take someone of
10 your intelligence and math to maybe understand how those
11 groupings work. I'm not joking. It's a very difficult
12 calculation. I commend our officer for his work on this
13 effort.

14 And I agree with him after spending a long time
15 understanding it that the offense level is 43, which is the
16 offense level after you consider all the 7 different groups
17 of offenses and the criminal history category of 1.

18 Criminal history category of 1, Mr. Wolf, reflects
19 the fact that you are not a prior offender. It's the lowest
20 level offense level.

21 What this means, sir, is that the United States
22 Sentencing Commission, the people that are nominated by the
23 president, confirmed by the United States Senate, including
24 my colleague, Judge Restrepo, among others, have recommended
25 to us, that federal judges, consider for your offenses, your

1 guilty offenses, a term of life in prison.

2 But since none of the offenses that Congress has
3 set include a life in prison term, I'm not permitted to do
4 that. Congress sets the cap.

5 So, they authorize a guideline range of 2,880
6 months in custody. That's what I was talking about. It's
7 not possible. So, by definition, you have to vary down from
8 2,880 months.

9 The Sentencing Commission does not recommend
10 probation, nor does Congress. Sentencing Commission
11 recommends following Congress, supervised release of five
12 years to life in each count.

13 Sentencing Commission recommends a fine of 50,000
14 to 250,000 per count. Of course, that can be concurrent.
15 Restitution, which is set by Congress of \$800, and the
16 congressional restitution.

17 That is the various restitution acts under either
18 the -- under the JVAA, the AVAA or the -- or under Section
19 3663 and 64.

20 So, I now turn, if I may, to ask counsel for the
21 United States if there's any objections to the -- I asked
22 about corrections. Do you have any objections to the
23 report?

24 MS. HARRELL: No, Your Honor.

25 THE COURT: Okay. Mr. Donato, any objections to

1 the report?

2 MR. DONATO: Nothing, Your Honor.

3 THE COURT: Thank you, sir. I do have -- there is
4 no request for departure or variance from the United States.
5 Is that correct?

6 MS. HARRELL: That's correct, Your Honor.

7 THE COURT: Okay. I do have from -- I think Ms.
8 Mattes, your memorandum requested for variance. Is that
9 correct? A downward variance?

10 MS. MATTES: That's correct, Your Honor.

11 THE COURT: Okay. So we'll deal with that. But
12 that is the nature of a 3553 argument, if I understand it
13 correctly, right?

14 MS. MATTES: That's correct.

15 THE COURT: Okay. Thank you. Okay. Let's turn,
16 if I may then. So, I just described what Congress tells us
17 and the Sentencing Commission tells us about incarceration.
18 Let's talk next about restitution and see if I understand
19 this.

20 And United States, it comes at the back of your
21 memo, and I don't blame you for that. Your focus is on what
22 happens. But it's at this stage that I'd like to put these
23 things up front, so I understand the whole world of
24 sentencing in this.

25 Explain to me -- I understand the Juvenile Act and

1 I understand the Amy Act and how they work. You have a
2 recommendation of \$100,000 under the Amy Act. I could go up
3 to 400,000. Why are you recommending 100,000?

4 MS. HARRELL: Your Honor, that recommendation
5 comes from taking into account the fact that I am
6 anticipating restitution requests being made on behalf of
7 the specific victims in this case.

8 However, as the Court knows, I've requested to
9 defer the restitution component of the sentencing for 90
10 days while those claims are put together.

11 THE COURT: Okay. So, just so we're clear, the
12 Juvenile Act and the Amy Act go to the national profile,
13 right? They go to a national fund for exploited children,
14 right?

15 MS. HARRELL: Correct, Your Honor.

16 THE COURT: Okay. The restitution that you're
17 seeking under 3663 is to the -- essentially the families or
18 the boys that are identified in the indictment. Is that
19 correct?

20 MS. HARRELL: Correct, Your Honor.

21 THE COURT: Okay. And do I understand it from
22 your memo that nobody has come forward with an affidavit of
23 restitution as yet?

24 MS. HARRELL: That's correct, Your Honor. And
25 frankly, that's in part because I -- that has not been at

1 the forefront of the Government's mind. And I've talked
2 with several of the families about putting together those
3 claims.

4 Unlike in many other child porn pornography cases,
5 these victims are first-time victims, so to speak. So, we
6 don't have that kind of workup in terms of their images
7 being traded, their counseling costs projected into the
8 future, and all of that.

9 So that's something I need to work on with the
10 families to compile the claims. And I would like the
11 opportunity to do that after today.

12 THE COURT: Well, Congress gives you that
13 opportunity.

14 MS. HARRELL: Yes.

15 THE COURT: As will I. Just let me be clear here.
16 I'm going to ask you to do that relatively quickly. What
17 I'm going to --

18 I just confirmed that this gentleman -- that Mr.
19 Wolf has sufficient liquid assets, and I don't want anybody
20 going -- in many of these cases -- you know better than I
21 do. We read the stories about every time a child gets a
22 check, it revisits trauma.

23 MS. HARRELL: Absolutely.

24 THE COURT: I don't want that.

25 MS. HARRELL: Yep.

1 THE COURT: I want a lump sum if I can.

2 MS. HARRELL: Understood.

3 THE COURT: Okay. So, I don't want to wait four
4 months, five months, six months. I want the United States,
5 as soon as they can, to urge the families to get that
6 information to you.

7 MS. HARRELL: Understood.

8 THE COURT: If they're not in there, they're not
9 getting it. I know the Supreme Court has said we're worried
10 about conviction restitution, but I -- this is unfair. I
11 view the case as a case with Fifth Circuit. I view this as
12 really penalty if we keep paying, if we keep delaying
13 restitution.

14 MS. HARRELL: Yes, I understand, Your Honor.

15 THE COURT: Okay.

16 MS. HARRELL: And that is my intent after today to
17 begin having more involved conversations about that topic
18 with the families.

19 THE COURT: Yeah. Please urge the families. This
20 is crucially important and it's a short window also. Also,
21 urge the families, this is not the time you think about
22 recovery somewhere else. This is the time the United States
23 Congress has given people to get restitution.

24 MS. HARRELL: Yes. And to be fair, I know the
25 Court understands this and a common sense tells us this, but

1 this is not the kind of case where any amount of restitution
2 would ever make a victim whole.

3 THE COURT: Yeah.

4 MS. HARRELL: And that's where the Government
5 starts as well.

6 THE COURT: Yeah. Unfortunately -- fortunately,
7 unfortunately, the people we elect have defined what
8 restitution could be.

9 MS. HARRELL: Yes.

10 THE COURT: Right. So, it's not -- we don't get -
11 - they don't recognize the true concept of pain and
12 suffering --

13 MS. HARRELL: Yes.

14 THE COURT: -- which is what this is about to the
15 parents and the boys.

16 MS. HARRELL: Right. Yes.

17 THE COURT: But there are costs of necessary
18 medical related professional services, and going forward,
19 relating to physical, psychiatric, and psychological care.
20 So, the -- I don't think -- these are all boys. I don't
21 think we have lost income and I'll leave the rest to you.

22 MS. HARRELL: Yes. Thank you, Your Honor.

23 THE COURT: All right. So, in addition, just so
24 I'm clear, United States, today, I have the absolute
25 discretion to enter the words under the Amy Act and the

1 Juvenile Victim Act, as well as a fine. Where in the order
2 of priority does the payments under this restitution land?

3 MS. HARRELL: Yes, Your --

4 THE COURT: In other words, this 3663 restitution
5 to the boys themselves. Where does this land?

6 MS. HARRELL: Yes, Your Honor. My understanding
7 is that, first, any special assessments would be paid,
8 including then the Justice for Victim of Trafficking Act
9 assessment and the Amy, Vicky, and Andy assessment, followed
10 by restitution, followed by a fine.

11 THE COURT: You believe 3653 is third?

12 MS. HARRELL: I do, Your Honor, but please correct
13 me if I'm wrong.

14 THE COURT: Oh, I know.

15 MS. HARRELL: I'm okay.

16 THE COURT: I'm asking you.

17 MS. HARRELL: Okay.

18 THE COURT: I haven't gotten to it yet.

19 MS. HARRELL: Okay.

20 THE COURT: I don't read the case law that way,
21 but --

22 MS. HARRELL: Your Honor, if I may, I'm receiving
23 some assistance from someone in our financial litigation
24 unit --

25 THE COURT: Okay.

1 MS. HARRELL: -- who's sitting just in the front
2 row. And he tells me, which certainly makes sense, that
3 restitution actually comes second.

4 So, after the special assessment ordered per
5 count, the \$100 special assessment, restitution comes next,
6 followed by the extra mandatory special assessments,
7 followed by a fine.

8 THE COURT: Right. When you say -- let's be
9 clear. When you say -- that means the 3653 assessment goes
10 before the JVAA and the Amy Act?

11 MS. HARRELL: Correct, Your Honor.

12 THE COURT: Yeah, that's it. That would be the
13 way I read it as well. I just wanted to be clear.

14 MS. HARRELL: Understood.

15 THE COURT: Okay. So, the issue we're going to
16 have then is whenever I enter a restitution order under the
17 acts is going to have to somewhat wait until you receive --
18 until we get the -- until I get your affidavits and get a
19 hearing -- we'll set a hearing about 100 days out, 120 days
20 out.

21 MS. HARRELL: Understood, Your Honor.

22 THE COURT: Okay. So, we'll still have -- we'll
23 enter them today, but they should not be collected until
24 such time -- as I understand it, until such time as we have
25 a full number.

1 MS. HARRELL: Yes. Understood.

2 THE COURT: Is that correct? Is that your
3 understanding?

4 MS. HARRELL: Yes.

5 THE COURT: Okay. Mr. Donato, do you have any
6 different understanding of this?

7 MR. DONATO: I do not, Your Honor. And perhaps
8 the Government and us can come to an agreement once
9 everything is finalized.

10 THE COURT: Mr. Donato, your experience leads you
11 to anticipate my next question. That is, I'm hoping that
12 you will -- that Mr. Wolf and you will be able to come to
13 some type of agreement to recognize this a fair number of
14 compensation once you see what people are claiming. I'm not
15 asking you to do it in dark, but once you see people
16 claiming.

17 Okay. All right. So, I have set aside as much
18 time as you need today, but unfortunately -- no.
19 Fortunately, for 75 citizens from 30 countries, I get the
20 privilege of sitting at 10:30 in a naturalization service,
21 which is the best thing we do in this courthouse. This is
22 the worst. That's the best.

23 In my day, I'd do them back-to-back in the same
24 morning. Just one of those things about being a squirrel as
25 a federal judge, right? You jump around all over the place.

1 So, I have to break at around 10:25 or so, and
2 there's 75 people and very happy families sitting downstairs
3 in a ceremonial courtroom.

4 Anybody here who wants to see that by a break,
5 you're certainly welcome to see that. It is a moving event.
6 People who desperately want to be -- people who escaped
7 tyranny and in many cases physical abuse to come to the
8 United States. Today is their day. And so today they get
9 naturalized in front of us.

10 So, if anybody wants to do that at 10:30 this
11 morning, you can -- certainly welcome. It's a public
12 hearing and certainly welcome to attend.

13 Okay. So, I turn to you. I've read your
14 extraordinarily well-prepared memorandum. I'm also aware of
15 Mr. Strange's condition because of our other proceeding with
16 Mr. Strange.

17 I've also had a chance to read the doctor's
18 reports from Dr. Somerton (phonetic) and Dr. Atkins. And
19 I'll hear from you. Anything else you wish to add?

20 I understand your recommendation, a life
21 equivalent, and you've now told me about the restitution.
22 So, I'm willing to hear anything you wish to, including any
23 victims, anything you wish to present to me.

24 MS. HARRELL: Yes, Your Honor. Thank you. Would
25 Your Honor like me to speak at the podium or counsel table?

1 THE COURT: Wherever you're comfortable. It's not
2 necessary -- as long as Madam Deputy can hear you.

3 MS. HARRELL: Okay. Thank you. Your Honor, I
4 want to start off by offering a few remarks, and then I know
5 that at least one parent of one of the victims does wish to
6 address the Court, which I will give her -- I'd like to give
7 her.

8 THE COURT: Before you do that, I want to also
9 reflect that while names have not been disclosed, we have
10 received, I would say, close to 10 or a dozen letters from
11 various parents, including one -- well, from various parents
12 as well as, I don't know if the young man is here, but a
13 very compelling letter. I'm sure that Mr. -- Mr. Donato,
14 have you seen these letters?

15 MR. DONATO: Yes, sir.

16 THE COURT: Okay. A very compelling letter from a
17 person identified as Minor 1. So, I've incorporated all
18 that. They're all -- I have those. Thank you for getting
19 them ahead of time. I all have them here.

20 So I don't -- you can refer to them, but I don't
21 need to hear that same thing from those same people, unless
22 the person wants to.

23 MS. HARRELL: Yes. Understood. It's something in
24 addition to that, Your Honor. And for the record, I don't
25 believe any of the actual victims are in attendance today.

1 THE COURT: Okay.

2 MS. HARRELL: However, the families of minors 1,
3 4, 5, 7, 9, and 10 are all here in attendance today.

4 THE COURT: 1, 4 --

5 MS. HARRELL: 5, 7, 9, and 10.

6 THE COURT: Okay. Thank you.

7 MS. HARRELL: Yes. Your Honor, so, I want to
8 start off by talking about what struck me in reading the
9 defense's sentencing filings and really the collection of
10 letters that were submitted on behalf of Mr. Wolf that
11 talked so much about his character.

12 And what struck me and immediately came to mind is
13 that character is not what someone does, presents to their
14 family and friends on a daily basis.

15 The true test of a man's character is what he does
16 when no one is watching. That's what John Wooden has had to
17 say about character.

18 And what did Mr. Wolf do when no one was watching?
19 After already 20-some years ago, starting his collection of
20 child pornography, he chose to enter a profession where he
21 surrounded himself every single day with the exact age range
22 of boy students to whom he was most sexually attracted.

23 Years before meeting Mr. Strange online in 2020,
24 he began -- at least as far as the Government knows, because
25 the evidence in the case is what comes from the FBI's

1 ability to extract some of his Telegram communications from
2 his cell phone.

3 But at least as early as March of 2018, over two
4 years before he met Mr. Strange online, Mr. Wolf was
5 communicating on Telegram with his associates, his other
6 child predators throughout the country about their shared
7 interest in the sexual abuse of young boys.

8 It struck me in reading the defense's filings that
9 I don't think a single letter was submitted on his behalf
10 from someone who's a peer, not a family member, a cousin, a
11 friend of one of his parents.

12 And I understand that this is a very difficult day
13 for all of those people who have, by all accounts, you know,
14 had contributed to his excellent upbringing, all of the
15 opportunities he's had. I understand it's a difficult day
16 for all of those people. But not a single letter submitted
17 from a peer.

18 And frankly, I would submit that's because Mr.
19 Wolf's peers, his friends, were these Telegram associates.
20 And who were they?

21 Well, we know one of them was Alden Bunag, who was
22 a teacher, a middle school teacher in the district of Hawaii
23 where he's been charged.

24 He was someone who also shared Mr. Wolf's sexual
25 interest in his own students, and actually, sent Mr. Wolf

1 years ago, a video of himself sexually abusing his own 13-
2 year-old student, to which Mr. Wolf responded with glee that
3 he appreciated not just receiving the video, but knowing
4 that there might be an opportunity for him, someone like him
5 to have sexual contact with a 13-year-old.

6 He would just have to find a 13-year-old to fuck,
7 not to use my words, but Mr. Wolf's words.

8 Another one of Mr. Wolf's Telegram associates,
9 also identified through a lead generated out of FBI
10 Philadelphia, who has done, as they always do, but in this
11 case in particular, has done tremendous work, not just in
12 making sure that Mr. Wolf is held accountable for his
13 conduct, but in making sure that some of his other
14 associates have been charged -- identified, charged in other
15 districts, and will be held accountable for their conduct as
16 well.

17 One of those other associates who Mr. Wolf was
18 communicating with for years before meeting Kray Strange on
19 Telegram was Daniel Dasko, also known as Mr. Pickles,
20 another teacher and youth hockey coach, who's now charged in
21 the Southern District of California.

22 Again, someone who Mr. Wolf bonded day in and day
23 out with over their shared sexual interest in their own
24 students and their own players.

25 There are others, a youth baseball coach who's yet

1 to be identified, and others who Mr. Wolf communicated with
2 day in and day out.

3 He was working a full-time job as a teacher well
4 before the COVID pandemic and spending nearly every day
5 communicating with these individuals online about their
6 shared sexual interest in children, trading child
7 pornography, which, of course, as the Court knows, re-
8 victimizes those children who are depicted in those images
9 each and every time their images are traded.

10 Because that's yet another distribution of the
11 memorialization of those children's sexual abuse at the
12 hands of adults like Mr. Wolf.

13 Those were his peers, Your Honor, and certainly
14 not people he would want to submit character letters on his
15 behalf.

16 So, years before meeting Mr. Strange, that's what
17 he was involved in. With these other associates, Mr. Wolf
18 had already started to not necessarily commit crimes, but
19 certainly crimes related to his own students.

20 He was committing crimes with his exchange, his
21 trading of child pornography, but he had already started to
22 escalate to focus his sexual attraction onto the children
23 that he had daily access to.

24 He started out by sending innocent school photos
25 of some of these kids, the boys he liked most, to these

1 Telegram associates, talking about how much he would love to
2 see his eighth-grade students engage in sexual conduct with
3 fifth graders at the school. And going so far as to pair
4 off some of those children by name to his associates.

5 He started distributing what I would describe as
6 surreptitious photos of these children, not pornographic,
7 but photos that Mr. Wolf took sometimes without their
8 knowledge in his class, on field trips, much like the photo
9 in the defense's filing of Mr. Wolf starring in his high
10 school drama performance.

11 That is a photo just like what he might send to
12 one of his Telegram associates, describing the boys in the
13 photo and talking about his sexual interest in some, one, or
14 all of them.

15 Before meeting Mr. Strange online, Mr. Wolf had
16 already begun, before the COVID pandemic, discussing with
17 one of his Telegram associates about how he was grooming a
18 10-year-old student at recess by skipping his own lunch
19 period at SCH to attend the elementary school recess period,
20 where he then isolated this little boy in the woods away
21 from the other kids at recess, away from the supervisors,
22 and started talking to him, manipulating him, to use Mr.
23 Wolf's own words as he described his conduct to one of his
24 associates, when he thought no one was watching.

25 Talking about how he would get the child alone,

1 but didn't quite know how to escalate things, again, to use
2 Mr. Wolf's words.

3 Ultimately, with one of these associates, he
4 developed a plan to escalate things, to talk to the child
5 about how he, in yet another place in his life where he had
6 almost unfettered access to the exact age range of children
7 that he was most sexually attracted to, coached baseball at
8 the school.

9 And this child, an aspiring baseball player,
10 perhaps Mr. Wolf could get the child to show him his ab
11 muscles and lift up his shirt. Perhaps when he did that, he
12 could brush his hand over the child's penis, and so on.

13 That's what Mr. Wolf was doing before he even met
14 Kray Strange. And fortunately, for that child, the COVID-19
15 pandemic shut down the schools in March of 2020.

16 In March of 2020, when the COVID-19 pandemic hit,
17 it made each and every one of the victims who were
18 identified in this indictment even more vulnerable to Mr.
19 Wolf's predatory actions.

20 These kids were online all the time. They were in
21 online school. They were in online communication with their
22 closest friends, real friends, with their closest family
23 members outside of their nuclear families.

24 And that kind of online contact and online way of
25 meeting friends was even more normalized when these kids

1 were isolated from in-person interaction.

2 And when Mr. Wolf met Mr. Strange online, which is
3 when the conduct that's charged in the indictment really
4 begins, in May of 2020, Mr. Wolf had taken the opportunity
5 to go where he had support, to travel to Florida to live
6 with his parents for a period of a few months, where he
7 could teach his virtual classes from there, giving his
8 parents an opportunity, as they wrote in their letters, to
9 see what kind of a teacher he was really like on video
10 during the day.

11 And by night -- I don't know when the man slept
12 because he was engaging in chat after chat after chat,
13 picture after picture exchanged with Mr. Strange and these
14 others.

15 I attached as Exhibit C to the Government
16 sentencing memorandum -- what sounds long at almost 100
17 pages of chats between Mr. Wolf and some of these other
18 individuals, it's less than 1 percent of the communications
19 that Mr. Wolf had with these other men online.

20 And it is the crime, it is the insight into Mr.
21 Wolf's mindset, his sexual interests. It's exactly what he
22 was doing when he thought no one was watching, was this,
23 this criminal child exploitation.

24 So, when Mr. Wolf and Mr. Strange met, while Mr.
25 Wolf had the fortune to be living with some people in his

1 support system, Mr. Wolf, I would submit, viewed Mr. Strange
2 as a sort of a fan.

3 And in fact, Mr. Strange, lying about his own
4 identity, presented himself to Mr. Wolf as a child. He told
5 Mr. Wolf he was only 16 years old, which was not true at the
6 time, but was what Mr. Wolf presumably believed at the time.

7 Mr. Strange found Mr. Wolf as a result of reading
8 some of Mr. Wolf's erotic stories, which I believe are
9 described to some extent in one of the psychological
10 reports. Mr. Wolf self describes the kind of fiction that
11 he was writing.

12 Well, that fiction wasn't about this kind of --
13 you know, I think in one of the defense's letters, this, you
14 know, love who you love and accept others for who they love
15 kind of mentality, that's not what we're talking about.

16 We're talking about someone who preyed on children
17 because those are the people he was sexually interested in.
18 And with these stories, he wrote about the rape of boys by
19 adults. And that's what drew Mr. Strange to Mr. Wolf.

20 So, they begin their relationship, for lack of a
21 better word, their friendship, and for months, trading child
22 pornography, talking about Mr. Strange's efforts to bait or
23 catfish boys, which he had, apparently, great success in
24 doing, far more success than one of the other men Mr. Wolf
25 maintained his Telegram association with, who he, Mr. Wolf,

1 had previously provided social media handles of some of his
2 students, information about those students to target,
3 information as sick as it is, not drawing a single line at
4 family even, information about one of his own nephews too.

5 But that person had not been successful. Mr.
6 Strange, however, was a different story. And Mr. Strange
7 presented the opportunity for Mr. Wolf to get directly
8 involved online with the victimization of children.

9 In terms of the indictment and the conduct alleged
10 therein, they started with Minor Number 8, who was not one
11 of Mr. Wolf's students, but a child who lived in Oregon at
12 the time.

13 And Your Honor received a lovely, heartbreaking
14 letter from that child's mother, who described her son, even
15 before the pandemic, as someone who suffered from
16 significant anxiety, didn't have a lot of friends, all of
17 which were exacerbated by the pandemic.

18 And that child believed, like every other boy in
19 this indictment, every other child that Mr. Wolf victimized,
20 that child believed that he was communicating with two girls
21 about his own age, Mr. Strange and Mr. Wolf, who were his
22 friend, who liked him, who cared about him.

23 Their relationship over the course of months
24 became sexually charged online and Mr. Wolf, not only in
25 direct communication with this child via Instagram,

1 soliciting that child to produce sexually explicit images of
2 himself, Mr. Wolf attempted to take it even further after
3 developing the trust of this child, developing a bond with
4 him as some kind of, you know, Ashley, his friend.

5 He attempted to take it even further by coercing
6 this child to sexually abuse his own little brother while
7 his little brother slept.

8 Fortunately, for that child, that family, and that
9 mother, that kid drew the line at that and told Mr. Wolf he
10 would not engage in such behavior, but did send Mr. Wolf
11 pictures of his brother in the bathtub, in bed asleep, and
12 so on.

13 That's the kind of thing Mr. Wolf was doing when
14 he thought no one was watching.

15 And then he and Mr. Strange decided to target Mr.
16 Wolf's own students. They started with Minor Number 1,
17 who's the minor that you received a letter from.

18 He's older than most of the other kids in the
19 indictment. He is -- I mean, he's doing so great. He's in
20 college. He is obviously still struggling with this.

21 And you read in his letter about how crushed he
22 was to find out that the person behind the scenes who he
23 believed was a girl, two girls, again, like they had done
24 with Minor 8, who were his friends, was actually one of his
25 most beloved teachers, Mr. Wolf, who he had continued to

1 maintain some kind of mentor role model relationship with
2 after no longer being in his class.

3 That crushed that child so much so that he can't
4 study one of the subjects that he was most interested in.

5 That's where Mr. Wolf and Mr. Strange started with
6 victimizing Mr. Wolf's own students. But that was not
7 enough for Mr. Wolf. He needed to get to the younger
8 students.

9 And to do so, he created this -- what can only be
10 described as a calculated malicious spreadsheet of potential
11 victims for Mr. Strange to target.

12 And I know Your Honor has seen that as well and it
13 speaks for itself. But any single child, any student at
14 that school, current, former, or would be, could have been
15 Mr. Wolf's victims because that's what he wanted.

16 THE COURT: Were all those students in the school
17 -- all those people in that Google Doc students at the
18 school?

19 MS. HARRELL: Yes, Your Honor. And --

20 THE COURT: But not -- but was it every fifth,
21 sixth and seventh grader or was it just selected students,
22 do you understand?

23 MS. HARRELL: It was not every single one. Your
24 Honor knows it's an all-boys middle school.

25 THE COURT: Yeah.

1 MS. HARRELL: It was many of the boy students in
2 each of those grades --

3 THE COURT: Okay.

4 MS. HARRELL: -- fifth through ninth grade. But
5 it was not every single one because Mr. Wolf went to great
6 lengths to --

7 THE COURT: That why number 8 is not in that
8 spreadsheet.

9 MS. HARRELL: Number 8 was not a student at the
10 school, Your Honor.

11 THE COURT: I didn't know that.

12 MS. HARRELL: Correct. Yes. So he is not in
13 there, nor is Minor 1 --

14 THE COURT: Right. He's too old.

15 MS. HARRELL: -- because he was too old. Nor is
16 one of the other minors. And in fact, in later Telegram
17 communications between Mr. Wolf and Mr. Strange, after
18 receiving some of the sexually explicit videos that they
19 enticed Minor 4 to create, they discussed how Minor 4 hadn't
20 originally been on their spreadsheet and needed to be added
21 because now he would be a victim as well.

22 And with this spreadsheet, not only did Mr. Wolf,
23 I mean, continue to gratify his own sexual interests day in
24 and day out, but made it a game.

25 And that is yet another -- I mean, that's an

1 extra, almost sadistic element of this case, is the fact
2 that he organized this list of potential victims using some
3 of the children's school photos that he had access to by
4 virtue of being a teacher at the school.

5 And he gave a list of -- a hit list of victims to
6 Mr. Strange with 78 children on it. So, once he provides
7 that spreadsheet to Mr. Strange, that's when their real
8 success, for lack of a better word, in victimizing Mr.
9 Wolf's students, begins.

10 And Mr. Strange was very successful and Mr. Wolf,
11 we see his conduct escalating. Not only is he having these
12 communications almost all night, every night, with Mr.
13 Strange and others, because he's maintaining his
14 communication with his other associates, his other Telegram
15 buddies, including sending some of the videos of his own
16 students he's receiving to some of these other sexual
17 predators around the country. He's starting to --

18 THE COURT: Counsel, when you send those photos --
19 when he sent the photos, is it your understanding that they
20 would also identify that? Because he's not writing Minor 2
21 and Minor 2.

22 MS. HARRELL: Correct.

23 THE COURT: Is he identifying by a kick name or by
24 whatever it is, knock name or whatever? I saw the chart.

25 MS. HARRELL: Yes. He would often --

1 THE COURT: So, if I was -- so, then if a predator
2 sitting in Hawaii wanted to, he could find the same person?

3 MS. HARRELL: Yes, Your Honor. And --

4 THE COURT: The same child?

5 MS. HARRELL: Yes. Sometimes using their social
6 media handles, sometimes using their first name, sometimes
7 their full name.

8 I mean -- and clearly, Telegram is used by people
9 like Mr. Wolf because they believe that due to its end-to-
10 end encryption and Telegram's refusal to cooperate with law
11 enforcement in terms of providing any content, that these
12 messages would never be recovered or discovered by law
13 enforcement, certainly by his close friends and family.

14 He concealed this behavior from everyone in his
15 life. But this was his -- this took up a huge amount of his
16 time. And he wasn't only doing it at night, he was engaged
17 in this while at school even.

18 And I'm sure Your Honor recalls from the
19 Government sentencing memorandum the discussion that Mr.
20 Wolf and Mr. Strange had specifically about Minor 10, who
21 was physically in Mr. Wolf's classroom at the time when Mr.
22 Strange contacted him via Snapchat, again, as this young
23 teen girl that these boys think they're friends with, who is
24 distributing sexually explicit photos of young girls, yet
25 another class of victims in this case that really gets lost.

1 The little girls, young girls that Mr. Wolf and
2 Mr. Strange redistributed images of in order to assist their
3 enticement efforts.

4 But while Minor 10 is sitting in Mr. Wolf's class,
5 Strange is encouraging him, at Wolf's direction, to go to
6 the bathroom to see if they can get the child to produce
7 images of himself while he's actually in school. And of
8 course, that arouses Mr. Wolf to no end.

9 The child did not send any images at that point in
10 time, but Mr. Wolf's conduct was not separated at all from
11 his teaching. It was completely intertwined in terms of his
12 selection of victims, in terms of his sexual interests, in
13 terms of even when he was engaged in some of the criminal
14 conduct on the school's property.

15 The Defendant's criminal conduct was undeterred,
16 as I've discussed, by the supportive factors in his life.
17 And it continued even after the Defendant had gone to great
18 lengths to father a child using a surrogate.

19 As a single father to a newborn baby, the
20 Defendant was literally taking care of the baby in one arm,
21 feeding her, soothing her, while holding the cell phone,
22 viewing and exchanging, trading child pornography, baiting,
23 catfishing his students, sometimes lamenting the fact that
24 he couldn't so easily view the videos with just one hand
25 because the baby was in the other.

1 That's who Mr. Wolf is. He is not an excellent
2 teacher. He is not an excellent father. He is a child
3 predator and the community must be protected from him. And
4 that is why the Government is asking for a life equivalent
5 sentence.

6 The Defendant's crimes that he's charged with in
7 this indictment and that he pled guilty to are the most
8 egregious aspect of his conduct for sure, but they only
9 scratch the surface of his involvement in this child
10 exploitation world in which he was deeply, deeply
11 entrenched.

12 And even today, Mr. Wolf -- of course, he's
13 accepted responsibility by pleading guilty, but he continues
14 to deflect responsibility, blaming Mr. Strange when he
15 speaks to both Dr. Somerton and his own psychological
16 expert, for getting him to the place where he was committing
17 these crimes.

18 Well, frankly, Mr. Strange's involvement only
19 facilitated his successful completion of these crimes. He
20 was already well entrenched in this before meeting him.

21 He blames the COVID pandemic for isolating him,
22 for causing him to get involved in this, but he was already
23 doing this for years before that.

24 And with those kinds of statements, the Defendant
25 demonstrates, as Dr. Somerton described, a real lack of

1 insight or recognition into his motivations for committing
2 these crimes.

3 He has no idea why he would target his own
4 students, but he's certainly interested in learning why.
5 That is ridiculous.

6 He targeted his own students because he was
7 sexually attracted to them and he enjoyed this kind of, I
8 mean, taking it to the next level of beyond just fulfilling
9 the sexual attraction, but the trickery component of it.

10 Because, of course, these children are not going
11 to be sending sexually explicit images of themselves to
12 their teacher.

13 And I'm going to give the victims' parents who
14 want to speak an opportunity to do so, and they will discuss
15 the impact on themselves, on their children, on the
16 community far better than I could ever do.

17 But that's what happened to these kids when they
18 found out that Mr. Wolf was behind the phone. They didn't
19 view themselves as victims.

20 And then they found out their teacher was their
21 friend Ashley or Leslie online. And their entire worlds
22 have changed as a result forever. And that's the impact Mr.
23 Wolf has had on the community and on these children.

24 So, Your Honor I would like to give -- I know the
25 mother of Minor 5 would like to address the Court, so I

1 would like to --

2 THE COURT: Can I have a question before you --
3 can I have a question for you, please?

4 MS. HARRELL: Yes, please.

5 THE COURT: The chronology strikes me because it's
6 a little bit -- there's so much, I'm missing the chronology.

7 MS. HARRELL: Yeah.

8 THE COURT: I understand the COVID issue. Okay?
9 But there's a statement in your memorandum, two things that
10 aren't directly charged, but I believe are relevant conduct.

11 And one is the masturbating and the boys
12 underpants on an overnight trip. That had to be before
13 COVID.

14 MS. HARRELL: Yes, Your Honor.

15 THE COURT: That's not one of these boys, right?

16 MS. HARRELL: Not as -- no, Your Honor. It was
17 not one of the boys. So that was something that Mr. Wolf
18 bragged to one of his Telegram associates about doing on an
19 overnight school trip.

20 THE COURT: Approximately when, do you know?

21 MS. HARRELL: I would say approximately 2018,
22 perhaps 2017, depending on --

23 THE COURT: Okay.

24 MS. HARRELL: -- if he was talking in the past.

25 THE COURT: Okay. Second one referenced came from

1 the text messages -- or excuse me, Telegram messages. Was
2 the idea how he was -- the boy with the pelvic -- you know,
3 strong pelvic muscle. He didn't know what it was, right?

4 MS. HARRELL: Yeah.

5 THE COURT: Strong pelvic muscle. And he reached
6 down and actually grazed his penis.

7 MS. HARRELL: Yep.

8 THE COURT: And he apologized and he -- and in
9 fact, he said this is why it's illegal.

10 MS. HARRELL: Yes.

11 THE COURT: When is that? Is that --

12 MS. HARRELL: That --

13 THE COURT: COVID is March of 2020. It has to be
14 before that?

15 MS. HARRELL: That was in January and February of
16 2020 when he was --

17 THE COURT: Right before the pandemic?

18 MS. HARRELL: Yes. And that's based on -- that
19 timeline is based on Mr. Wolf's own statements about that to
20 his Telegram associate.

21 THE COURT: Oh, I see.

22 MS. HARRELL: Because those statements were being
23 made in January and February of 2020. And you can see, as I
24 hope I outlined well enough in the memorandum, how it
25 evolves.

1 It starts with discussing that child, then
2 discussing what happened at recess one day, then discussing
3 the plan to escalate things. So --

4 THE COURT: Does it strike you as odd doing so
5 many of these cases in your experience and your expertise
6 that we go from touching. The way I've seen these cases is
7 they graduate from photos to hopeful personal gratification,
8 touching on.

9 MS. HARRELL: Yeah.

10 THE COURT: It seems this one goes the other way.
11 Or is that -- why is that? Why is it seems there's touching
12 and the --

13 MS. HARRELL: Yeah.

14 THE COURT: And then is it the pandemic or what?
15 Is there any graduation to touching --

16 MS. HARRELL: Well --

17 THE COURT: -- going on after the catfishing
18 scheme?

19 MS. HARRELL: Not as far as we know, Your Honor.
20 And certainly, prior to those statements that Mr. Wolf made
21 to his associate about his conduct with the 10-year-old
22 little boy, he was trading child pornography. He was doing
23 all of that.

24 THE COURT: Right.

25 MS. HARRELL: So, I would submit that in this

1 case, Mr. Wolf -- I mean, to his credit, there has not been
2 -- that child did not -- has not disclosed sexual abuse, nor
3 has anyone else.

4 THE COURT: Which child? The pelvic bone child?

5 MS. HARRELL: Yes.

6 THE COURT: That's not one of these boys.

7 MS. HARRELL: He's not, Your Honor. No. He has
8 been identified by the FBI and his parents have been --

9 THE COURT: Okay. But he's not part of the
10 indictment?

11 MS. HARRELL: Correct. He's not part of the
12 indictment, Your Honor.

13 THE COURT: Okay.

14 MS. HARRELL: I mean, I would submit that Mr.
15 Wolf's whole profile, if he were to have a hands-on victim,
16 which is what Your Honor's asking, it would have to be a
17 younger child that he could manipulate or a child on one of
18 these overnight trips who is perhaps questioning his own
19 sexuality, who he could ply, if he wanted to, with drugs,
20 alcohol, and so on, to make that child complicit.

21 THE COURT: Playstation crimes.

22 MS. HARRELL: Yes, exactly. The play --

23 THE COURT: So, what is the -- tell me -- give me
24 the timing of the boy in the walk in the woods. When is
25 that? Because that's -- you know, I'm trying -- escalate is

1 the word he uses. I'm trying to --

2 MS. HARRELL: Yes.

3 THE COURT: I touched him on his shoulder, I
4 touched him on his hand.

5 MS. HARRELL: Right. That would've been --

6 THE COURT: When is that?

7 MS. HARRELL: That would've been in early 2020
8 before the pandemic started. That's why I say, fortunately,
9 for that child, the COVID pandemic closed down the schools.

10 THE COURT: Okay. All right. I'll hear from
11 anybody who wishes to, please.

12 MS. HARRELL: Okay. Your Honor, I would like to
13 call Minor 5's mother.

14 THE COURT: Number 5?

15 MS. HARRELL: Yes. Would you like her at the
16 podium, Your Honor?

17 THE COURT: Wherever she's most comfortable. As
18 long as I can hear her, that's fine.

19 MS. HARRELL: Yeah. Yeah. Is it okay if -- you
20 want to sit?

21 THE WITNESS: I'll sit, stand, whatever.

22 MS. HARRELL: Okay.

23 THE COURT: It's fine. Whatever you're most
24 comfortable.

25 THE WITNESS: Thank you.

1 MS. HARRELL: Yeah, you can.

2 THE COURT: As long as Mr. Wolf and his counsel
3 and I can hear you.

4 MS. HARRELL: Do you want her sworn, Your Honor?

5 THE COURT: Yes, please. Thank you. I'm sorry.
6 Thank you. Yeah.

7 THE CLERK: State your name for the record.

8 MS. HARRELL: And, Your Honor --

9 THE COURT: Wait. Hold on. Hold on. Hold on.
10 Just say your first name. Just use your first name and the
11 initials of your child. The first name. Is that okay? The
12 first --

13 MS. HARRELL: Can we just do her perhaps the
14 mother of Minor 5 and her first name?

15 THE COURT: That's fine.

16 MS. HARRELL: Okay.

17 THE WITNESS: My first name is Diana, D-I-A-N-A,
18 and I'm the mother of Minor 5.

19 THE COURT: Thank you.

20 THE CLERK: Do you swear that the testimony you
21 shall give the court shall be the truth, the whole truth,
22 and nothing but the truth, so help you God?

23 DIANA, PLAINTIFF'S WITNESS, SWORN

24 THE WITNESS: I do. Do you mind if I sit down?

25 THE COURT: Whatever you wish.

1 THE WITNESS: I just -- yes. Thank you for
2 allowing me the opportunity to give this victim impact
3 statement regarding Mr. Wolf at the risk of reopening wounds
4 that are in the process of healing and making myself very
5 vulnerable by sharing intensely personal experiences of my
6 family.

7 I know that hearing from us about how these crimes
8 have impacted us will help Your Honor give him an
9 appropriate sentence.

10 And that's the only reason that I'm willing to
11 share the personal torment that we've been going through for
12 the past 15 months.

13 I just want to say thank you to the FBI agents
14 who've worked on this case, and, of course, Ms. Harrell.
15 Their commitment and dedication to doing this type of work
16 is not lost on me.

17 It's hard and I know the toll that it takes and I
18 can't thank them enough for their patience and all the work
19 that they've done to help the families get through this
20 process.

21 And I'm forever grateful to them and to -- thank
22 you. To Agent Schreyer (phonetic), especially, for
23 insisting that I was not entitled to see the discovery
24 related to my son, despite my multiple requests to do so and
25 my assurance that I could handle it.

1 Knowing everything I know about this case now, I
2 know for sure that I could not have handled it.

3 And I only recently decided to speak today because
4 it's very hard to be here and put my son's personal identity
5 out to the entire Chestnut Hill Academy community.

6 And not only is it hard for me to put myself out
7 here, it's hard for the other families who are all here
8 despite knowing that being here is going to identify them in
9 the community.

10 But I wanted to do so anyway because I know how
11 important it is to hear directly from victim's families
12 about the impact.

13 But even more so, Your Honor, is knowing -- I read
14 the plea agreement and I know what happened in this case to
15 my son's friends.

16 And it is another trauma to walk in that door this
17 morning and see the faces of -- essentially, I'm looking at
18 the children when I see their families. We are a small
19 community. We've gone to school together since our children
20 were four years old in pre-K.

21 And knowing that the other kids are involved, it's
22 another traumatization that we are all here feeling right
23 now. And it's the reason why a lot of us probably aren't
24 here.

25 And it's not because they're not interested or not

1 because they're not tremendously impacted by this, but it's
2 because it's really hard to go through what we went through,
3 now have our identities put out into the public basically.

4 And also, to be re-traumatized by knowing that
5 kids that I love and that I've loved since they were little
6 are involved in this.

7 But being here to exercise our rights for some of
8 us and others of us who can't is just another thing that
9 he's taken away from us.

10 But I'll tell you about my son. He's the kind of
11 kid who never had a bad day before his freshman year of high
12 school.

13 He's always been a leader at the school. He was
14 popular with everyone. He was the class speaker for the
15 eighth-grade graduation and he was voted as such by his
16 peers.

17 And in his speech, he talked about how much the
18 school meant to him and how his teachers have made such a
19 huge impact on all of the kids' lives and how lucky they
20 were to be at a school where the teachers cared so much
21 about the students.

22 At the time, we had no idea that Mr. Wolf would be
23 one of the greatest impacts on them, and not because he
24 taught them math.

25 I look back on photographs that I have in my phone

1 from that day of graduation and I remember it quite clearly
2 that I saw Mr. Wolf with his daughter, his newborn daughter,
3 and all the parents and all the kids gathered around
4 offering their congratulations.

5 All the while, he went home and he was looking at
6 our children naked after using the private information that
7 he had about them to gain their trust, to satisfy some
8 deviant sexual proclivities that he has. And then he
9 invited a stranger onto our campus to do the same.

10 When we first heard about his arrest, so many of
11 the kids asked about what was going to happen to his
12 daughter, what was going to happen to her.

13 They had compassion for her. And little did they
14 know they were the victims. Our children were the victims
15 and they were the ones that were exploited and violated.
16 Our lives will never be the same.

17 When we became aware of our son's involvement in
18 November of 2021, we debated even telling him that he was
19 involved because I know particularly what it means to open
20 the door of being a "victim."

21 But knowing that other kids would know of their
22 own involvement and knowing that our son would figure out
23 that he was involved because all the kids talked about this
24 Leslie person and Alex and Ashley trying to contact them.

25 So, we told him. And we wanted to try to lessen

1 the shame and trauma and stress that he may have felt by not
2 knowing if anyone would find out that he was involved.

3 His first response was to be filled with shame.
4 He worried about how this is going to impact him for the
5 rest of his life.

6 Who has the picture besides my teacher and his co-
7 conspirator? Did they sell them? Did they give them to
8 pedophiles around the world? Who saw this picture? Is it
9 going to spread around school? Are other teachers going to
10 know? Other kids? Am I in any trouble?

11 And probably worse for him was the knowledge that
12 I had told him from the time he was little not to do this
13 kind of thing.

14 And it's hard for a 13-year-old, which was how old
15 my son was when this happened, to do the things your mom
16 tells you not -- you know, when you do the things your mom
17 tells you not to do, to have to live with that is difficult.

18 And I want to tell you how shame and betrayal and
19 the violation can impact somebody because you never know who
20 you're going to affect. And in a million years, I never
21 thought that my son would be affected the way he was
22 affected.

23 He spiraled into depression and self-harm to deal
24 with his feelings of shame, self-blame, fear, sadness,
25 embarrassment, anxiety and betrayal. He began cutting his

1 arms to deal with the emotions that he'd never really had
2 before.

3 The day after telling him about his involvement in
4 this, he cut his arms with a razor blade 20 times on each of
5 his forearms.

6 He used -- he took the blade out of a cheap Bic
7 type razor, and it was months before I figured out exactly
8 how he did that.

9 So, eventually, we had to lock up every cutting
10 instrument in our house, including knives, scissors,
11 anything. But he would figure out a way to use everyday
12 items around the house to get the job done.

13 We put him in intensive outpatient therapy in
14 December of 2021. But so -- and that was around the
15 Christmas holidays and he came to me and told me that he
16 wanted to talk to the FBI.

17 He wanted to help make sure that Mr. Wolf and Kray
18 strange are punished for what they did to both him and his
19 friends. And he wanted to make sure that he'll never be
20 able to do this to another kid again.

21 And he also said that he wanted to make sure that
22 his friend -- he didn't leave his friends out to dry. He
23 wanted to be with them because he knew that other kids were
24 involved and wanted to help make their cases stronger. His
25 sense of wanting to protect other people is always

1 remarkable.

2 He even in fact tried to persuade some of his
3 friends not to accept friend requests from this Leslie and
4 Alex person because he knew after sending the picture that
5 he sent that something wasn't right and he ended up blocking
6 them so that he didn't have a lot of involvement in those.

7 Shortly after making the call to the FBI and
8 setting up the appointment to speak to the forensic
9 interviewer, he cut again, 20 to 30 cuts on each arm. And
10 then after the interview, he did the same thing.

11 And at that point, we took him out of intensive
12 therapy and put him in a partial hospitalization program,
13 which turned out to be a disaster. It was completely
14 unhelpful.

15 And when he walked out of there, he looked at me
16 and said, "I think I'm going to need to go to residential.
17 This isn't working."

18 We continued to try to find appropriate trauma
19 related therapies for him, but it's not as easy as it
20 sounds, even though we have resources and insurance.

21 It was still sort of the pandemic and places were
22 just full and we had fights with insurance companies. We
23 were on wait lists, we had all kinds of issues with that.
24 And my son continued to deteriorate.

25 And on Wednesday, February 23rd, I got a call from

1 one of the parents of one of my son's friends. It was at
2 night.

3 And she told me that my son had told her son that
4 he can't take it anymore and he's planning to take all of
5 his medication.

6 And I caught him on the way downstairs and stopped
7 him from taking an entire bottle of medication because he
8 can't deal with the shame.

9 We took him to the emergency room and he went to a
10 hospital where he spent the next week getting stabilized on
11 new medication.

12 He was transported in a ambulance. He was taken
13 hours away because there were no beds available. It was in
14 a different state.

15 It was during COVID and I couldn't visit him. He
16 saw things at that hospital that will live forever in his
17 memory and he won't even talk about it.

18 At the time, it was the best place for him, but it
19 was horrendous. And leaving him there was the most
20 difficult thing I've ever done in my life and I hope I never
21 experience that kind of fear, helplessness, and sadness ever
22 again.

23 Your Honor, I have photographs, because I don't
24 know if you know what it looks like to see a 14-year-old boy
25 in a hospital after he's tried to kill himself. And I want

1 you to see what that looks like because it's horrible.

2 There's a picture in the emergency room and
3 there's a picture of him in the waiting room to get sent to
4 a locked ward to make sure that he stays alive.

5 I want him to see what that looks like and replace
6 in his mind the pictures you have in your head that you
7 stole from our children with the picture of what it looks
8 like when you do something like that to another child.

9 This is what I want you to remember. Not whatever
10 it was that he stole. That is what shame, betrayal, and
11 humiliation felt like, that the only way to solve that is to
12 die, all because of what your math teacher did.

13 After the stay in the hospital, he began new
14 therapy that we paid for out of pocket. He swore he never
15 wanted to go back to the hospital and he would never cut or
16 think of suicide again.

17 But that didn't last long. He spent spring and
18 summer trying very hard to act like things were fine when
19 they were anything but.

20 I brought a photograph, Judge, of what it looks
21 like when you take a razor blade to your forearm and carve
22 the word worthless into your skin.

23 When you cut your skin, it causes a scar. And
24 this is the physical scar of what was done to my child,
25 worthless on his arm, for the rest of his life.

1 And that's not even the worst picture. I remember
2 being here at the guilty plea, Your Honor, and you asked
3 him, Judge, how he felt.

4 And he told you that he was not suicidal. And I
5 thought, wow, how lucky? My son is a victim of those crimes
6 and he's suicidal and you are not. How lucky?

7 And eventually, in the summer of last year, 2022,
8 he went to a residential place in August, again out of
9 state, many, many miles away, hours of driving. We dropped
10 him off and within days, we went back.

11 He was there with kids who drank hand sanitizer,
12 choked themselves out to get high, and he was involved in a
13 verbal altercation that led to a physical act of violence
14 against him when someone threw him to the ground because my
15 son was doing what he does all the time, which is standing
16 up for bullies, like he always did.

17 Finally, after trying so many different things, we
18 found the right place for him. And finding the right place
19 for him meant taking him out of the school where he had been
20 since 2011 when he was four years old, and he hasn't been
21 back to Springside Chestnut Hill Academy this year.

22 Once the pressure of not having to attend school
23 where this ordeal began, he could focus on himself and his
24 healing.

25 And the program was another partial

1 hospitalization program. He went every day for seven and a
2 half hours a day for three months. It was very intense for
3 him and for our whole family.

4 He went to school there, he had individual
5 therapy, group therapy, recreational therapy, art and music
6 therapy. It was nonstop work for him all day. Even during
7 the lunch hour.

8 We had family therapy and numerous meetings with
9 the therapy staff. We drove him there every day. A 40-
10 minute drive there from my house, and then an hour or more
11 back to the city for work, an hour or more back to pick him
12 up, and then 40 minutes home. And we did that for three
13 months.

14 Upon discharge, he went to the same place and did
15 intensive outpatient therapy for three days a week and now
16 he sees the therapist once a week.

17 He's on the road to recovery now and is doing
18 really well. It's been over six months since he's hurt
19 himself and he's focusing on trying to get back to a school
20 next year and trying to put this behind him.

21 Suicide prevention is a very important part of my
22 son's life and he's teamed up with the National Association
23 of Mental Illness and the American Foundation for Suicide
24 Prevention.

25 He's held fundraisers at his gym, he's sold t-

1 shirts, and he's raised over \$5,000 for those organizations.
2 His goal last summer was to get the word out about the new
3 suicide prevention hotline, 988, and I'm very proud of him.

4 But honestly, Your Honor, I wish this was not the
5 charity that he chose to make such a big part of his life.

6 The constant worry that I have that this incident
7 will be the thing that sets my child over the edge into drug
8 or alcohol addiction, more suicide attempts, more mental
9 health crises, it's powerful and it's overwhelming, and it
10 seems like the worry for me is never going to end.

11 I live every day with the fear that this is going
12 to be the event that defines my child's life and everything
13 now is before and after.

14 He was a different kid before this happened and
15 there's no doubt that this has changed us forever.

16 I can only hope that -- and pray that the time and
17 energy he's spent now into therapy and healing is going to
18 go a long way to prevent issues from happening in the future
19 had he not dealt with this trauma when it happened.

20 The impact that this has had on the rest of my
21 family cannot be understated. My son's older brother is a
22 student at SCH as well. My older son goes into my younger
23 son's room every night to make sure he is still breathing.
24 Every night.

25 It's unimaginable that an 18-year-old kid trying

1 to focus on finishing high school and starting college feels
2 like he needs to make sure his little brother's alive every
3 night. All because his teacher wanted to satisfy some sick
4 and twisted sexual interest. And it's -- I can't -- I just
5 can't tell you how unimaginable this entire process is.

6 Again, I was here at the plea and I didn't hear
7 him say he was sorry and I didn't hear him say he's
8 remorseful, and I don't know if he's going to allocute
9 today. I hear that he is, and I hope that he does.

10 And I can only hope and pray that he is truly
11 remorseful for his actions and that he can eventually get to
12 some true empathy for his victims.

13 I hope he understands the betrayal. I hope he
14 knows just how impactful. Even though this has not gone to
15 physical touching, it's almost like it doesn't matter. The
16 trauma is very similar.

17 And nothing that he can say is going to change how
18 I feel, but it's fair to ask, I think, who he shared these
19 pictures with and how much further could this potentially
20 blow up for us?

21 I feel like in 5 years, in 10 years, I'm going to
22 be getting calls from the FBI that say that my son's
23 pictures have been -- have shown up somewhere again. But
24 I'll never know.

25 I can only hope that Your Honor gives him a

1 sentence that we don't have to worry about anything like
2 this happening again.

3 I don't want to have to worry about him doing what
4 he said he planned to do in the future, as stated in his own
5 words, discussed -- as Ms. Harrell already told us. When
6 people tell you who they are, believe them.

7 And I hope that your sentence, Judge, will show
8 our kids and any future kids that could come across his path
9 that they're worth protecting. Thank you.

10 THE COURT: Thank you. Counsel, I have to adjourn
11 for naturalization. My hope is to be back no later than
12 12:30, but I defer to you if you would prefer to start at
13 1:00 or based on whatever schedule you have, but my hope is
14 to be back as soon as I can.

15 Probably an hour and 15 minutes or so for a
16 naturalization. I have to get through the shaking hands and
17 all that, take pictures. Much different environment.

18 So, I defer to each of you. Would you prefer --
19 is 12:30 okay with you?

20 MS. HARRELL: 12:30 is fine, Your Honor.

21 THE COURT: I don't want to mess up your day, but
22 does that work for you?

23 MR. DONATO: Yes, sir.

24 THE COURT: Okay. All right. The court's
25 adjourned to 12:30. I'll be in the ceremonial courtroom

1 (indiscernible) today.

2 Yes, sir. Mr. Donato?

3 MR. DONATO: Your Honor, would you like to know
4 what we're going to do and how long it's going to take?

5 THE COURT: Hold on. Hold on. What's your
6 thought?

7 MR. DONATO: The way we plotted this out is -- I'm
8 glad that the sentencing memorandum was useful to the Court.

9 THE COURT: It was.

10 MR. DONATO: I have to give Ms. Mattes credit for
11 that.

12 THE COURT: Yes, it was well done.

13 MR. DONATO: It was collaborative effort, but --

14 THE COURT: Yeah.

15 MR. DONATO: -- she did the heavy lifting. What
16 we'd like to do is --

17 THE COURT: I knew that.

18 MR. DONATO: What we'd like to do is have Ms.
19 Mattes address the court first and then I'll have some
20 remarks at the end. The Government has no objection to
21 that.

22 THE COURT: If that's okay with the Government,
23 sure.

24 MS. HARRELL: That's correct, Your Honor.

25 THE COURT: Fine with me.

1 MS. HARRELL: That's fine.

2 THE COURT: Thank you. All right. Court's
3 adjourned until 12:30.

4 THE BAILIFF: All rise.

5 THE COURT: Thank you very much.

6 (Recess taken from 10:26 a.m. to 12:33 a.m.)

7 THE BAILIFF: All rise.

8 THE COURT: Good afternoon. Please be seated.

9 MS. HARRELL: Good afternoon, Your Honor.

10 THE COURT: Express my personal appreciation to
11 counsel and their -- and Mr. Wolf for your kindness and
12 allowing me to welcome 66 members from 33 countries to the
13 United States. Thank you for your time.

14 United States, we were in your presentation when I
15 had to break to handle the naturalization. Do you have any
16 further information you wish me to consider other than your
17 papers and what I heard from the mother of Minor Number 5?

18 MS. HARRELL: Yes. Just very briefly, Your Honor.

19 THE COURT: Please.

20 MS. HARRELL: No other parents wish to address the
21 court, although they've all returned for the second half of
22 today.

23 THE COURT: Okay.

24 MS. HARRELL: And as I said before we broke, no
25 one can describe the victim impact in this case better than

1 the parents of the victims themselves, and what you've heard
2 in court today and what you've read and the letters.

3 I did just very briefly want to address two issues
4 that I didn't speak about before the break.

5 THE COURT: Fine.

6 MS. HARRELL: One of those is the guidelines and
7 one is the risk of recidivism, both of which were -- the
8 defense's sentencing filings devoted quite some time to
9 addressing.

10 In terms of the sentencing guidelines, I want to
11 draw the Court's attention to what the guidelines, while
12 they call for a life sentence, which can't legally happen in
13 this case, but the Government is asking for a life
14 equivalent sentence.

15 The guidelines, even at the highest range
16 possible, don't account for several facts present in this
17 case.

18 They don't account for all of Mr. Wolf's victims
19 because the grouping rules are capped at five units, five
20 victims, when this indictment charges him with crimes, both
21 in the conspiracy and then in some of the substantive
22 offenses with crimes against 14 children.

23 The guidelines don't account for Mr. Wolf's
24 position as a teacher when he committed these crimes or his
25 betrayal of the profession.

1 And the guidelines don't account for the other
2 child pornography activity that he was engaged in, the
3 trading, receiving, distributing, and possessing images of
4 other children being abused.

5 So, I would highlight those facts for the Court in
6 making the argument that this is certainly not a mandatory
7 minimum type case.

8 And Mr. Wolf, through his own conduct, the
9 victimization of his own students, the scope and
10 entrenchment of his involvement in the child pornography
11 exploitation world online, and really the victim impact in
12 this case warrants a sentence that amounts to a life
13 equivalent sentence.

14 The Government submits as well that the sentence
15 imposed by this Court, I mean, of course, it will hold the
16 Defendant accountable for his crimes, and it should reflect
17 the conduct in this case and not be based on some predicted
18 future risk of Mr. Wolf's behavior in terms of his
19 likelihood to recidivate in committing these crimes.

20 And of course, as I talked at length before the
21 break, we've seen Mr. Wolf's recidivism over and over and
22 over again in the years leading up to his arrest in this
23 case.

24 I do want to highlight that even the Defendant's
25 own expert, while ultimately concluding that Mr. Wolf, after

1 significant treatment, would pose a low risk for recidivism,
2 describes Mr. Wolf as a man who has been and always will be
3 preferentially attracted to minors. The attraction is
4 neither treatable nor curable.

5 And with all due respect to Dr. Atkins, in terms
6 of his ultimate conclusion as to Mr. Wolf's risk to
7 recidivate, that is a particularly bleak description of Mr.
8 Wolf's sexual proclivities, and not just the feelings, of
9 course, but the fact that he acted on them in this case over
10 and over again to victimize children.

11 I would ask the Court to give significant credit
12 to the opinion in the report of Dr. Somerton that was issued
13 really at the Court's request.

14 That's the Court-appointed psychologist who also
15 evaluated Mr. Wolf and commented, among other things, on Mr.
16 Wolf's lack of insight and lack of understanding of his
17 motivation to commit these offenses, which represent
18 potentially ominous signs of his inability to refrain from
19 the future victimization of children.

20 And of course, that opinion connects with common
21 sense, the Government would submit.

22 The fact that Mr. Wolf continues to minimize his
23 conduct when speaking to the psychologists, I would submit,
24 is something else that the Court should give great weight
25 to.

1 As the Court noted in your initial comments, Mr.
2 Wolf lied to the FBI at the time of his arrest in October of
3 2021, adamantly denying that he had been or ever would
4 victimize his own students.

5 And since then, I would submit, has, of course,
6 had to admit that, given the weight of the evidence in this
7 case, and did admit that at the change of plea hearing, but
8 continues to minimize the extent of his involvement in this
9 community.

10 He also demonstrates, or at least has demonstrated
11 a real lack of empathy for the victims, telling Dr. Atkins
12 that he never thought he was harming any of these boys
13 because he was only pretending to be a teen girl.

14 And the fact that it took being arrested and
15 having his conduct exposed to alert him to the fact that, of
16 course, he was harming these children.

17 Not just when they found out about his identity as
18 the person behind the Ashley Hamilton girl persona online,
19 but also, he was harming these children by discussing them,
20 by redistributing their images to other predators on the
21 internet.

22 And as the mother of Minor 5 eloquently discussed,
23 those are concerns that will follow these families forever.
24 Where have those photos gone? Who has them?

25 And frankly, the FBI will never be able to confirm

1 that they have, you know, tracked each and every photo to
2 each and every predator who may have received them on the
3 internet. And the Government submits that the Court should
4 take that into account.

5 The letters that the Court received in terms of
6 victim impact, of course, the Court knows, and I just want
7 to say that one of the mothers talked about --

8 You know, her son is minor number, whatever, but
9 these kids aren't minor numbers. They're real kids, who
10 were his real students, who are --

11 I mean, they're sons, they're loved, they're
12 trying to get through a really tough time for anybody,
13 adolescents, during a pandemic, trying to maintain
14 friendships, play on sports teams, do all the normal things
15 that kids are supposed to do.

16 And instead, they're dealing with finding out that
17 Mr. Wolf victimized them online, and many of them deal with
18 every single day walking back into the school where this
19 conduct at least originated from.

20 And I wanted to read just a portion, a very brief
21 portion of one of the letters that was submitted as victim
22 impact. Because what this case --

23 Mr. Wolf has victimized, not just these individual
24 kids as direct victims, but the entire school community who
25 are indirect victims, all of the kids he taught, their

1 parents, their families, who trusted him with their
2 children's education and wellbeing. He has broken that
3 trust and truly betrayed his profession.

4 As the mother of one of the children writes, "A
5 teacher-student relationship is unique. There is a special
6 bond and understanding that forms that allows students to
7 feel safe, supported, and valued.

8 There is a clear understanding that no matter
9 what, the teacher is there to motivate you, support you, and
10 make you a better person.

11 Andrew Wolf's actions fractured the foundation and
12 core values at SCH and left students questioning and feeling
13 that school was no longer a safe space for them."

14 And that's the kind of teacher that Andrew Wolf
15 was. The teacher who fractured this safe space for children
16 and betrayed his profession.

17 And for all of these reasons, the Government is
18 asking this Court to impose a life equivalent sentence.

19 THE COURT: I have one question. Thank you,
20 Counsel.

21 MS. HARRELL: Yes.

22 THE COURT: I have one question, maybe two. Just
23 one, I think.

24 It seems to me from the reports that I read, that
25 there was more -- you suspected there were more pictures and

1 things like this, and you alluded to earlier it. I don't
2 know, Telegram.

3 But what is the --- what is -- what are your
4 agents telling you is what happened to other items? In
5 other words, we only know about what's on the phone. Is
6 that right?

7 MS. HARRELL: Correct.

8 THE COURT: I'm not suggesting there's more --

9 MS. HARRELL: Correct.

10 THE COURT: -- but there's an illusion in the
11 paperwork that there was more.

12 MS. HARRELL: Your Honor, so, the way that
13 Telegram -- the evidence came from Telegram in this case is
14 from Mr. Wolf's phone.

15 And within that, the Telegram messages are only
16 maintained within that phone, as I understand it, if they
17 have not been deleted by either side of the conversation.

18 In the messages that were extracted, there were a
19 number of actual video and photograph files recovered, and
20 many of those correspond to the victims in the substantive
21 counts charged in this case.

22 THE COURT: Right.

23 MS. HARRELL: There were also many instances where
24 we've called them empty files, where you could tell that a
25 video or picture had been received or distributed, but the

1 content of that file was no longer present and visible to
2 the agents on Mr. Wolf's phone because, presumably, one
3 party had deleted it. So, because of that, we can --

4 THE COURT: Any party can delete?

5 MS. HARRELL: Yes. Am I -- can any -- yes.

6 THE COURT: Any -- okay. So, is Telegram a one-
7 to-one communication source, or is it more like you put it
8 out on the web? I don't (indiscernible).

9 MS. HARRELL: It's a social media messaging
10 application where you can communicate one-on-one or you can
11 communicate in, like, chat groups with other people.

12 THE COURT: Okay.

13 MS. HARRELL: So, it's contained within the
14 application.

15 THE COURT: Sort of like text messaging, you have
16 a group text?

17 MS. HARRELL: Yes, Your Honor.

18 THE COURT: Okay. So, any person in that group
19 chat can delete the chat, the whole -- for everybody?

20 MS. HARRELL: Yes.

21 THE COURT: Off everybody's device?

22 MS. HARRELL: Yes. Yes.

23 THE COURT: Okay. So how is your conspiracy claim
24 -- well, what -- Mr. Wolf can -- admits guilt to Count 1?

25 MS. HARRELL: Correct.

1 THE COURT: But I want to understand, is the --
2 what's the basis to think there's a conspiracy beyond the --
3 and there's a conspiracy, I get, but beyond the people who
4 are identified in the -- the young men who in identified in
5 the indictment?

6 I mean, what makes you think it's beyond -- you
7 just said earlier, it goes beyond those people.

8 MS. HARRELL: Well --

9 THE COURT: What makes you think that?

10 MS. HARRELL: I'm not sure that the other
11 offenders that Mr. Wolf was communicating with were
12 specifically involved in this conspiracy, which was to
13 catfish Mr. Wolf's students. That's how this indictment
14 charges it, right?

15 THE COURT: I'm not talking about co-conspirators.
16 I'm talking about the overt act. How do we know or what's -
17 -

18 Do you believe or your agents believe that there
19 were other young men, boys, targeted that aren't -- that
20 were deleted? And if so, why do you believe that?

21 MS. HARRELL: Oh, Your Honor, absolutely. Strange
22 --

23 THE COURT: Okay. Why?

24 MS. HARRELL: Mr. Strange and Mr. Wolf targeted
25 over the course of 5,000 -- near 5,000 pages of

1 communications between them. It's very clear that they
2 targeted other boys --

3 THE COURT: Okay.

4 MS. HARRELL: -- in addition to these victims
5 charged in this indictment.

6 THE COURT: You're right. I used the wrong verb.
7 Target is the wrong verb. I saw their text messages. I
8 mean, did they actually obtain child pornography? Did they
9 retain child pornography?

10 MS. HARRELL: Yes. Yes, Your Honor. And some of
11 them -- and this actually was introduced at the change of
12 plea hearing.

13 Some images of those children have also been
14 recovered, including children who were targeted because they
15 had large online social media followings and were very
16 talented athletes, children who were participating in the
17 Little League World Series --

18 THE COURT: Right.

19 MS. HARRELL: -- in the late summer of 2021. And
20 those children, some of them have been identified, have
21 identified themselves in sexually explicit images recovered
22 from Mr. Wolf's device.

23 But based on the facts of this case and the fact
24 that that would potentially be included as relevant conduct,
25 certainly information this Court --

1 THE COURT: Okay.

2 MS. HARRELL: -- can take into account in
3 sentencing, the indictment was not superseded to add
4 additional substantive charges related to those children.

5 There are others as well still -- I mean, the FBI
6 has worked to identify other children, send out leads, and
7 so on. There are --

8 I mean, of the image files recovered that we can
9 actually see content from in the communications between Wolf
10 and Strange, I think there is an estimate that about 250 of
11 those image files depict children engaged in sexually
12 explicit conduct. And not all of those children have been
13 identified.

14 THE COURT: Well, how many, in your estimation, do
15 any of those children, other than the people identified,
16 subject to the catfishing scheme?

17 MS. HARRELL: Yes. All of them, as I understand.

18 THE COURT: Oh. So let me be clear then.

19 MS. HARRELL: Yes.

20 THE COURT: You believe that approximately 200 or
21 so, 250 young boys --

22 MS. HARRELL: Yes.

23 THE COURT: -- were all subject to the
24 Strange/Wolf, you know, Ash Hamilton and -- what's her name?
25 The other woman's name, strange names?

1 MS. HARRELL: Leslie.

2 THE COURT: Leslie. Well, no, Leslie Hanson.

3 There was another one too.

4 MS. HARRELL: And Alex Zampino (phonetic). Alex

5 THE COURT: Alex Zampino.

6 MS. HARRELL: Yes.

7 THE COURT: You believe they were subject -- there
8 were other people out of these eight? That's what I was
9 trying to get at.

10 MS. HARRELL: Yes.

11 THE COURT: There were other victims other than
12 these eight?

13 MS. HARRELL: Yes. And some -- I don't want to
14 say maybe 200 victims of the specific catfishing scheme.
15 Some of those victims were catfished by Mr. Strange on his
16 own and then distributed to Mr. Wolf and discussed, but yes,
17 in summary, yes.

18 THE COURT: But some of them were still directed,
19 you believe, by Mr. Wolf?

20 MS. HARRELL: Yes.

21 THE COURT: Other than the eight?

22 MS. HARRELL: Yes.

23 THE COURT: Other than the people we know about in
24 this case?

25 MS. HARRELL: Yes. I would -- yes, I believe that

1 Mr. Wolf participated with Mr. Strange, similar to how he
2 did here in terms of providing instructions about what he
3 wanted to see --

4 THE COURT: Okay.

5 MS. HARRELL: -- making requests of Mr. Strange
6 and so on.

7 THE COURT: Okay. So, Telegram is not like any
8 other system I know then, because I don't know these, but
9 typically, we send somebody in and they can go in through
10 some server and get something.

11 MS. HARRELL: No.

12 THE COURT: In this context, completely double
13 deleted, gone.

14 MS. HARRELL: Correct. And Telegram prides itself
15 actually on its lack of cooperation with law enforcement and
16 its great efforts to circumvent any kind of legal process.
17 And in fact, stores its servers of its own content in
18 various overseas locations --

19 THE COURT: Okay.

20 MS. HARRELL: -- for that exact reason, to avoid
21 the Government being able to obtain anything through a legal
22 process.

23 THE COURT: Were there any photos shared -- I saw
24 that Mr. Wolf and Mr. Strange used pseudonyms on -- well, or
25 referenced pseudonyms on TikTok and Snapchat.

1 MS. HARRELL: Uh-huh.

2 THE COURT: And maybe others. I don't -- I'm not
3 aware of their names. But were there any photographs
4 recovered off those servers?

5 MS. HARRELL: No. No, not -- no, Your Honor.

6 THE COURT: They were mostly communicative
7 sources? They were mostly --

8 MS. HARRELL: Yes. And those were -- as Your
9 Honor probably remembers from the sentencing memo, those
10 were also platforms where Mr. Strange was operating -- Mr.
11 Strange and Mr. Wolf were operating their teenage girl
12 personas.

13 THE COURT: Yes.

14 MS. HARRELL: So -- yes.

15 THE COURT: Okay. There's no -- the pictures of
16 the girls in your view were pictures -- they weren't Amy Act
17 pictures.

18 They're pictures -- nobody was solicited for the
19 girls' pictures. They were pictures, unfortunately, already
20 out there to be taken, right?

21 MS. HARRELL: Right. Yes, Your Honor.

22 THE COURT: No girl was solicited?

23 MS. HARRELL: Correct. Yes.

24 THE COURT: Anything further?

25 MS. HARRELL: No. Thank you, Your Honor.

1 THE COURT: Okay. Mr. Donato, you were nice
2 enough to tell me how you're going to present, and I'm going
3 to let you do that.

4 I have a question. Do you -- there's a -- the
5 United States has asked for a preliminary order of
6 forfeiture. I believe it was part of the plea. Any
7 opposition to that, sir?

8 MR. DONATO: No, sir.

9 THE COURT: All right. So, we'll enter a judgment
10 of preliminary order of forfeiture. Mr. Wolf, you
11 understand you're still under oath?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. Do you understand that you're
14 giving up any right to a variety of items, computers, visual
15 depictions, videos, all identified in the United States
16 motion? Do you know you're giving up any right to those
17 items?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Okay. I will enter an order granting
20 the United States motion for preliminary order of
21 forfeiture. So we begin that process, whatever we do with
22 that.

23 Okay. Mr. Donato, I look forward to hearing from
24 you and Ms. Mattes and Mr. Wolf. (Indiscernible).

25 MR. DONATO: Ms. Mattes, with the Court's

1 permission, will go first.

2 THE COURT: Please.

3 MS. MATTES: Good afternoon, Your Honor.

4 THE COURT: Good afternoon.

5 MS. MATTES: I'd like to start, first of all, by
6 correcting error in our memo that says -- has the wrong date
7 for the change of plea, which --

8 THE COURT: That's all right.

9 MS. MATTES: -- is already placed on the record as
10 June 23rd, 2022.

11 THE COURT: Right.

12 MS. MATTES: And rather than interrupt the flow of
13 my presentation, there's just a couple points that I would
14 like to make initially.

15 You know, character is an interesting thing. We
16 are certainly more than the things that we do, but what we
17 do does reflect on who we are and what we do and what
18 happens to us becomes a part of who we are.

19 And the events that bring everybody into this room
20 here today on both sides, I think reveal what complex and
21 fragile creatures human beings are.

22 THE COURT: Who's the -- I'm sorry to interrupt
23 you. Who's the both sides? You don't mean the agents?

24 MS. MATTES: I know. I mean --

25 THE COURT: Not both sides of the courtroom. You

1 mean the children and Mr. Wolf.

2 MS. MATTES: Right.

3 THE COURT: Okay.

4 MS. MATTES: I mean the Governments and its --

5 THE COURT: Okay.

6 MS. MATTES: -- people and the defense.

7 THE COURT: Okay.

8 MS. MATTES: And Mr. Wolf. Andrew Wolf has
9 admittedly done terrible things, and he's acknowledged those
10 things, but his character is also reflected in other ways.

11 He did have friends, he maintained friends, and
12 some of those people have written to the court. And I want
13 that to be clear.

14 However, people from the school were reluctant, if
15 not forbidden, to show their support. There is the
16 possibility of litigation that remains out there. Some
17 people believe that they were not able to write or allowed
18 to write --

19 THE COURT: Whoa, whoa, whoa. Slow down.

20 MS. MATTES: -- on his behalf.

21 THE COURT: Wait a second. That's a big
22 statement. I just sentenced the guy for doing that. So
23 make sure you be careful what you said. Do you believe that
24 people have been interfered with?

25 MS. MATTES: Oh, no. I'm not suggesting that

1 people have been threatened in any way. What I'm trying to
2 suggest to the Court that when someone is --

3 If someone is arrested for and convicted of
4 soliciting and producing child pornography, there is a
5 reluctance to come forward to the court and to write a
6 letter on that person's behalf.

7 THE COURT: All right. Okay. Yeah.

8 MS. MATTES: And that there certainly is the
9 concern on everyone's part that there's going to be
10 litigation against the school, that there is concern that
11 there's going to be litigation against Mr. Wolf.

12 And that there's going to be reluctance on their
13 part to come forward on his behalf and to write a letter
14 about --

15 THE COURT: Okay.

16 MS. MATTES: -- their personal relationship with
17 him that they had before these events took place --

18 THE COURT: Got it.

19 MS. MATTES: -- and that they stand by him in the
20 darkest hour of his life.

21 THE COURT: That's a very good point. But you
22 used the verb forbidden.

23 MS. MATTES: Okay. No, I'm not saying that.

24 THE COURT: Okay.

25 MS. MATTES: Sorry. And some of those people, I

1 think, would be here, but those who are willing to and able
2 to are present.

3 THE COURT: Well, I did receive -- I want you to
4 know, I did -- just like I read the letters from --

5 MS. MATTES: Sure.

6 THE COURT: I have, and very hopefully categories
7 friend, cousin, family. So, I have read all those letters
8 as well.

9 MS. MATTES: We tried.

10 THE COURT: No, no. I've got quite a few of them.
11 They were attached as Exhibit D to your memorandum.

12 And frankly, contrary to -- well, not contrary,
13 but different than what the United States says, there was at
14 least one person here that was involved at the SCH
15 community, who's no longer there, I believe --

16 MS. MATTES: Yes.

17 THE COURT: -- that's retired, that has spoken.
18 So, that -- when I read that, I was like, yeah, it's
19 probably people don't want to come forward.

20 So, your point, I understand it. I was also -- I
21 don't like the word forbidden because that would go to a
22 problem with SCH that our friends might be concerned about.

23 MS. MATTES: Well --

24 THE COURT: No, I mean, if that's true, I'll have
25 a problem with that.

1 MS. MATTES: Well, I don't know what's going on --

2 THE COURT: Okay. Fine.

3 MS. MATTES: -- in terms of what people are being
4 told specifically, but there are people who could not come
5 forward or would not come forward for any number of
6 different reasons.

7 THE COURT: Okay.

8 MS. MATTES: This is not a proud moment for Andrew
9 Wolf, needless to say, and it's one with which he will have
10 many of these not proud moments for the rest of his life.

11 But the Court should know there are those who did
12 take the time to write something on his behalf, not just --
13 although they do have a risk of embarrassment by publicly
14 sending a letter of support to this court.

15 Andrew has done good work. He has done community
16 service. He has worked at food banks. He has worked at
17 YMCAs. He has done things that were above and beyond what
18 was required at the moment. I'm going to talk about that a
19 little bit later.

20 I think the Court should also take note initially
21 this issue of the potential of a child actually being
22 touched. And I know that this is not the Court's first
23 sentencing of this kind and I'm sure you've had the
24 misfortune of reading any number of these kinds of chats
25 over your career, as have the rest of us.

1 And there's this certain element of trash talk
2 that these people engage in. For whatever reason, I tend to
3 think it's because it excites the person who's talking and
4 it is an attempt to excite and keep the person on the other
5 side involved in the conversation, because there's no one
6 else they're going to be able to talk to about this.

7 They're actually online anonymously with someone
8 who shares their same proclivities and they can talk about
9 their fantasies. And as real as you can make it, the better
10 it is for everybody involved.

11 And I'm going to suggest to the Court that that's
12 what happened in this case with regard to touching a 10-
13 year-old in the ways that has been described to the Court
14 earlier today.

15 THE COURT: Wait. Whoa, whoa, whoa. Hold on.
16 Are you suggesting that it did not happen, that the grazing
17 of the penis when he --

18 MS. MATTES: Yes.

19 THE COURT: Okay.

20 MS. MATTES: That child has been -- evidently has
21 been interviewed and has not disclosed that there -- that he
22 has been assaulted.

23 THE COURT: Okay.

24 MS. MATTES: There's been, I guess, roughly three
25 years for that to be --

1 THE COURT: Okay.

2 MS. MATTES: -- brought out.

3 THE COURT: Okay.

4 MS. MATTES: And so, what I'd like to do then is
5 direct the Court's attention back to some other issues,
6 those specifically having to do with the sentencing
7 memorandum and the sentencing guideline that applies here.

8 And we did spend a lot of time on the sentencing
9 guideline. I think that's time that the Court certainly --

10 THE COURT: It was very helpful. I had not seen
11 much of that research, so I appreciate you sending. I
12 shared it around my colleagues. Some of that I had not seen
13 before. So, it was helpful.

14 MS. MATTES: Thank you. And of course, we're not
15 the first people to raise this issue of the sentencing
16 guideline 2G2.1 as being a guideline that the Court may
17 choose to reject as a policy matter because of the way that
18 it was promulgated.

19 It does not reflect, as the Court has referred to
20 earlier today, the experience and the expertise of the
21 United States Sentencing Commission in developing sentencing
22 guidelines based on its own set of rules, its own statute in
23 28 991 and 994.

24 And therefore, the guideline, as it has been
25 promulgated, developed, and amended, does not yield a

1 sentencing range that is a rough approximation of the
2 3553(a)(2) objectives.

3 And there are certainly reasons, especially the
4 Protect Act, which everyone cites, that the Court may find
5 that it does not agree with the guideline and reject it on a
6 policy basis.

7 However, the Court doesn't have to do that. It is
8 not required to do it and it is not required to say why it
9 is or is not -- why it would not be doing it.

10 But the Court may also consider the sentencing
11 guideline and its provenance for giving it even less weight
12 as an advisory sentencing guideline in the way that it
13 fashions its sentencing today.

14 And that's the second reason for the Court to
15 consider the guideline and its background. And
16 specifically, the Feeney Amendment under the Protect Act is
17 the basis upon which this challenge is raised.

18 And the Government cites the protect Act and the
19 Feeney Amendment as -- interestingly, as a reason for the
20 sentencing guideline to be the way it is.

21 The problem with the Feeney Amendment, one of
22 several problems, is that the Feeney Amendment was the first
23 situation where the Senate rewrote the sentencing guideline,
24 actually raised the base offense score and the statutory
25 maximum based on faulty information, the first being that

1 sentences were too lenient at the time.

2 But they -- they did -- they were ignoring the
3 sentencing -- they were basing it on sentencing departures,
4 there being too many of them.

5 But they were ignoring that those departures, the
6 rate of departures was largely based on or distorted by
7 fast-track departures that were being granted in immigration
8 cases where those fast-track programs were available.

9 THE COURT: Right.

10 MS. MATTES: If you took out the fast-track part
11 of it, sentencing departures went down to 10 percent.

12 And the second problem, one of them, was that the
13 Butner study was being tossed around. And I'm sure the
14 Court's heard about this before.

15 THE COURT: Yeah.

16 MS. MATTES: I know I'm not the first one to
17 mention that to you. And that's been largely discredited,
18 if not completely discredited, since that time. There was
19 very little discussion about it.

20 There was an opportunity for the Sentencing
21 Commission to weigh in and to suggest that this was not a
22 good idea, and for the judicial conference to weigh in and
23 say that it was also not going to work out, that it was
24 going to be a problem.

25 And also, Ted Kennedy, who was one of the authors

1 of the Sentencing Reform Act of 1984, also gave an extended
2 speech during the debate on this.

3 And as it was, finally, the decision was made to
4 have the Feeney Amendment apply only to sex offenses, and
5 that's what got the Feeney Amendment through.

6 And it resulted in Amendment 664 to the sentencing
7 guidelines, which produced a lot of what you see in 2G2.1
8 today.

9 However, what the Court should take away from
10 this, I hope this afternoon, is that even given all of that,
11 the sense of the Congress at the time was that in Section
12 602, that the Department of Justice should focus its efforts
13 and its resources on major producers, distributors, and
14 sellers of obscene material and child pornography.

15 That is commercial production of child porn
16 pornography. That was the goal here.

17 And in the intervening decades since then, of
18 course, that has not been necessarily the focus of the
19 Department of Justice, the -- all of these -- or many of
20 these prosecutions are certainly not commercial production.

21 THE COURT: Right.

22 MS. MATTES: We now -- the people who are
23 prosecuted under the sentencing guidelines are individuals
24 who are not selling the child pornography. They are
25 certainly maybe doing it in volume, but it's not a

1 commercial aspect.

2 THE COURT: I think if you read the commentary,
3 I'd ask -- it's sort of off the topic, but the reality of
4 what happened though is --

5 I think what commentators have told me, I have no
6 personal knowledge, is that the large producers, the
7 commercial producers moved offshore.

8 MS. MATTES: Yes.

9 THE COURT: The effect of that law was that we can
10 no longer get -- the Department of Justice, not we. The
11 Department of Justice can no longer get those folks. The
12 large commercial producers, they're not sitting in
13 Philadelphia and, you know -- yeah.

14 MS. MATTES: It's interesting though, the Bureau
15 of Justice Statistics still refers to this as commercial --

16 THE COURT: Yeah.

17 MS. MATTES: -- exploitation production.

18 THE COURT: Yeah. So does the guideline.

19 MS. MATTES: Yes. Exactly. So, the result is the
20 guideline that we have, and it has several flaws that I have
21 outlined in my memorandum. I don't want to spend too much
22 time on it, but I do want the Court to consider this.

23 That the principal flaw of this guideline, of
24 course, is that it fails to differentiate between offenders
25 because everybody practically ends up very near or at a life

1 sentence --

2 THE COURT: Right.

3 MS. MATTES: -- guideline. The enhancements --
4 and this is -- because of the Protect Act, everybody gets an
5 enhancement for the victim's age, either two or four levels.

6 The care and custody aspect, that applies to 60
7 percent of offenders. A misrepresentation of identity or
8 use of computer applies to 45 percent.

9 And interestingly, because it applies directly to
10 this case, more than -- almost 62 percent of use of computer
11 cases involve teenagers.

12 What's happened in the internet age is that this
13 is how typically child pornography cases now are worked.
14 And of course, if there's more than one victim, you have the
15 other enhancements that are now applied.

16 I would point out to the Court the 2021 Sentencing
17 Commission report that I believe has some of the best data
18 and most available data for the Court to consider.

19 And this case is different from the typical case
20 in some regards. The people who got the longest sentence --
21 and I don't want to be misunderstood here.

22 There is nothing that either Mr. Donato or I will
23 say here that will anyway denigrate the heartbreak and the
24 sense of betrayal that these young men and their families
25 have felt and are feeling.

1 But if this is going to be a rational process,
2 there has to be some parsing of the facts and a way to
3 understand this case for what it is and in comparison to
4 other cases.

5 And having said that, the people who get the
6 longest sentences are those who victimize babies and
7 toddlers, those who are parents.

8 And we know those people exist, who victimize
9 their children. Those who engage in or facilitate the
10 sexual assault of the victims, or those who incapacitate the
11 victims.

12 That's where these longest sentences are meted at
13 by the federal courts nationwide, at least in 2019. So, of
14 course, none of those factors apply to Andrew Wolf.

15 People who receive lower sentences are those who -
16 -

17 THE COURT: If you direct somebody through a
18 pseudonym to touch somebody else, both who are children, is
19 that not directing the pornography?

20 MS. MATTES: What the sentencing -- well, of
21 course, it doesn't help every situation.

22 THE COURT: Right.

23 MS. MATTES: What the sentencing guideline -- the
24 guideline the commission is talking about there is where one
25 adult facilitates a sexual assault.

1 THE COURT: Nothing in the -- I don't --
2 respectfully, I don't see any -- I don't see the word adult
3 in there.

4 MS. MATTES: Well --

5 THE COURT: I mean, it doesn't -- I don't see the
6 idea. It's one adult facilitating in this sense. One adult
7 playing the role of Ashley Hamilton, playing a role of a
8 young girl.

9 You would -- I think you might agree with me. I
10 think I understand your argument. See if you and I are on
11 the same page.

12 MS. MATTES: Yeah.

13 THE COURT: If this actually were Ashley Hamilton,
14 if this were a 14-year-old girl, right, and she -- or better
15 yet, a 19-year-old girl, the adult idea, and she was
16 directing it, we'd have the same problem. Would we not?

17 MS. MATTES: Well, we're talking about one adult -
18 - we're talking about one person --

19 THE COURT: One adult.

20 MS. MATTES: -- facilitating or like getting
21 another -- a person for a meetup or traveling.

22 THE COURT: No, I'm talking about this. I've had
23 the case, the babysitter telling the one boy to touch the
24 other boy.

25 MS. MATTES: Uh-huh. Uh-huh.

1 THE COURT: Is that -- okay.

2 MS. MATTES: I think that that's true. I think
3 that that applies.

4 THE COURT: Yeah. Okay. So that applies. So,
5 how do you distinguish that? We have an adult male
6 directing through a pseudonym, either Strange or himself,
7 directing through a pseudonym, somebody's conduct as the two
8 other people?

9 MS. MATTES: Well, he's directing conduct of which
10 -- which one of the minors is in court?

11 THE COURT: Well, I -- my understanding -- well,
12 let me say this. I don't know if it's -- the relevant
13 conduct, is there's an allegation that he directed one boy
14 to go touch his brother.

15 MS. MATTES: Yes. Well, that's in one part -- one
16 aspect of one case.

17 THE COURT: I got it.

18 MS. MATTES: That is not the (indiscernible) --

19 THE COURT: It's not everybody.

20 MS. MATTES: -- aspect of the case. And there's a
21 lot of conduct here. I'm not suggesting that that's not
22 true.

23 THE COURT: Okay.

24 MS. MATTES: But I do think that that is not
25 necessarily the broad --

1 THE COURT: No.

2 MS. MATTES: -- factual scenario that the
3 Sentencing Commission was referring to in the report.

4 THE COURT: Okay. I understand your argument.
5 Okay.

6 MS. MATTES: I think that's a very specific
7 factual aspect of this case.

8 THE COURT: It would be a different case if
9 everybody was directed that way, clearly. I get your point.

10 MS. MATTES: Absolutely.

11 THE COURT: On a spectrum of culpability, that
12 would be a much worse situation.

13 MS. MATTES: Absolutely. And I think that's what
14 the Sentencing Commission is talking about. We're talking
15 about nationwide statistics here. I'm not talking about
16 individual aspects.

17 THE COURT: Okay.

18 MS. MATTES: But I think the Court does have to
19 consider how -- because the Government is asking you to do
20 this too, and the Court sort of has to, because there's a
21 question of sentencing disparity.

22 And no two cases are going to be exactly alike and
23 I certainly would make that point with regard to the case
24 the Government has suggested that the Court consider in its
25 own sentencing memorandum.

1 These cases are not all the same. None of them
2 are the same, but in every regard.

3 And, of course, people have -- when the victims
4 are older, sentences tend to be lesser. And those certainly
5 apply to this set of circumstances.

6 We don't have infants, we don't have toddlers.
7 They're not -- they're still vulnerable in terms of being
8 impressionable, being young, just barely post-pubescent, but
9 they are not as young as the Court -- or some predators have
10 been victimized.

11 THE COURT: Well, the idea there is that those
12 victims have no idea. Right. They're -- the baby ones are
13 the -- you know, that's on the one side of the spectrum, the
14 baby ones.

15 MS. MATTES: Sure.

16 THE COURT: And frankly, the three-year-old ones.
17 Your point is that we're not dealing with -- we're dealing
18 with somebody -- the victims in your view --

19 And not suggesting you're making any disparagement
20 with the victims, but the boys here are not babies and
21 they're not toddlers.

22 MS. MATTES: Right. Of course. And having said
23 that, I do want to address this issue of the zero prior
24 records score, because that is not something that's
25 addressed in the sentencing guidelines.

1 THE COURT: Sure.

2 MS. MATTES: And that is something that's worth
3 the Court's consideration.

4 THE COURT: Isn't everybody I -- everybody I've
5 seen in these -- I see very few of them that have more than
6 one.

7 MS. MATTES: Well, yeah, but there's a difference.
8 There's a -- and the Sentencing Commission has studied this.
9 Now, finally, after all these years of lumping everybody who
10 has a prior conviction with people who have zero conviction
11 --

12 THE COURT: Okay.

13 MS. MATTES: -- and zero arrests.

14 THE COURT: Okay. Got it. That's changing.
15 Right. Got it.

16 MS. MATTES: Right.

17 THE COURT: Right. That's one of the amendments.
18 Right. Okay.

19 MS. MATTES: Exactly, Your Honor. And it's
20 changing for a reason. Because the people who have zero
21 arrests, zero convictions, have a much lower recidivism
22 rate. Statistically, they have a lower chance of committing
23 a new crime.

24 And that's based -- this is one of the beautiful
25 moments where the Sentencing Commission's research actually

1 comes together and it's very compelling and they're moving
2 to change it.

3 Of course, the amendment that I saw is excluding
4 sex offenses.

5 THE COURT: Right. Right. And when you read the
6 -- well, I don't have an academic discussion racing here,
7 but --

8 MS. MATTES: Sure.

9 THE COURT: -- there's a good reason. They
10 suggest a reason having to do with something of Mr. Wolf's
11 conduct. And that is that very few people engaging in child
12 pornography get caught the first time, so --

13 I mean, I don't want to go into it, but that's --
14 I don't suggest a right or wrong, but that's part of the
15 reason.

16 MS. MATTES: Yes. Yes. And with that then, Your
17 Honor, I just would like to talk to the Court a little bit
18 about variances --

19 THE COURT: Okay.

20 MS. MATTES: -- under 3553, specifically with
21 regard to the nature of Mr. Wolf's possibility of being
22 victimized in prison.

23 And I know that the Court read this, but I think
24 it's worth the Court taking some time and my taking some
25 time with you, if you don't mind. This continues to be a

1 problem despite the Prison Rape Elimination Act.

2 THE COURT: Right.

3 MS. MATTES: There have -- this continues to be an
4 issue in prison. And Mr. Wolf is a small person. He --

5 I know the Bureau of Prisons does try to group
6 people in order to avoid it, but you cannot -- evidently,
7 they have been unable to prevent people from being
8 victimized.

9 There's a senate report with regard to women being
10 victimized and I cite to that in my memorandum.

11 THE COURT: Yeah.

12 MS. MATTES: Men are ever more reluctant to report
13 their own victimization. We don't know how many people
14 aren't, but between 2016 and 2018, there were 5,000 reported
15 substantiated sexual harassment and assault in the federal
16 prisons, as I noted for the Court.

17 And so, we -- and the fear of being sexually
18 assaulted is something that is worthy of this Court's
19 consideration in terms of setting sentence for a possible
20 downward variance.

21 As to the nature and circumstances of the offense,
22 I would merely point out for the Court that the -- in this
23 particular case, that there was never a danger to these
24 victims, that they would have bodily injury inflicted upon
25 them.

1 That while this is psychologically egregious for
2 them, and I recognize that, and the Court does too.

3 THE COURT: You wouldn't dare -- I don't think
4 you're suggesting to me that -- oh, you would characterize
5 that line about wanting to rape as being trash talk.

6 MS. MATTES: Of course.

7 THE COURT: Okay. Okay. Okay.

8 MS. MATTES: Of course. Yes, sir. Yes, sir.
9 Yeah. I'm not -- and I'm not here this afternoon to defend
10 the talk.

11 THE COURT: No, no. And we're not here today.
12 You don't go to jail for talk.

13 MS. MATTES: Precisely. The talk is not the
14 problem and I know --

15 THE COURT: Well, you could go to jail for talk,
16 but not today. Not in this one.

17 MS. MATTES: Not in this context. No.

18 THE COURT: Right.

19 MS. MATTES: The --and I don't want to get lost in
20 the weeds here with regard to some of these other cases, but
21 --because they don't factually match up.

22 THE COURT: You mean the comparatives in our
23 district?

24 MS. MATTES: Well, no, some of these other --
25 yeah, some of these other cases, you can't match them up.

1 I understand the Government has its position with
2 regard to how long the sentences are and that this sentence
3 should be as long as that sentence, but the people are in
4 different --

5 THE COURT: Yeah.

6 MS. MATTES: -- circumstances. One person had a
7 traumatic brain injury. One person is a contact offense.
8 One person was an 11(c)(1)(C) plea.

9 THE COURT: Yeah.

10 MS. MATTES: I mean, they did -- I don't know how
11 --

12 THE COURT: Let talk about the case.

13 MS. MATTES: Okay.

14 THE COURT: More or less culpable than Strange?

15 MS. MATTES: Precisely.

16 THE COURT: No, no. No, no. That's a question.
17 I'm sorry. More or less culpable than Strange?

18 MS. MATTES: Well, I think when some of them are
19 actually more --

20 THE COURT: No, no. No, no. Is Mr. Wolf more or
21 less culpable than Kray Strange?

22 MS. MATTES: Oh. Your Honor, I'm sorry. I didn't
23 understand.

24 THE COURT: No, I was -- I wasn't clear.

25 MS. MATTES: I don't know all the details of Mr.

1 Strange's set of circumstances.

2 THE COURT: Okay.

3 MS. MATTES: I do know that he was younger. I do
4 know that there's some discussion that he's on the autism
5 spectrum. There are certainly mitigators.

6 THE COURT: Well, I'm not talking about that. I'm
7 talking culpability. Put aside mitigation. I mean, are
8 they equal in your mind?

9 I mean, you realize that on March 31st or
10 something, I'm going to see the US attorney again. I'm not
11 going to see you and I'm going to see Kray Strange. Right?

12 And whatever I do today has some play, I'm sure
13 from talented counsel for Mr. Strange to say, well, or maybe
14 not, look at what you did with Mr. Wolf.

15 So, I want to get your instinct. Where are we on
16 the culpability scale of Mr. Wolf and Mr. Strange?

17 MS. MATTES: I'm going to -- can I ask Mr. Donato
18 to answer that?

19 THE COURT: Well, Mr. Donato could address it.
20 Thank you.

21 MR. DONATO: I'll answer it when I address the
22 Court.

23 THE COURT: Thank you, sir. Thank you.

24 MS. MATTES: Yeah. I'm going to let Mr. Donato
25 answer it.

1 THE COURT: Not a problem. Not a problem. It's a
2 question you expect, but I have --

3 MS. MATTES: Yeah, we do expect it. I'd like him
4 to answer it.

5 THE COURT: Okay. It's a disparity question I
6 face most directly.

7 MS. MATTES: I'm sure. I'm sure.

8 THE COURT: Okay.

9 MS. MATTES: And I'd like to address the Court
10 most directly with regard to the history and characteristics
11 of Mr. Wolf because we are seeking a downward variance based
12 on his history and characteristics.

13 THE COURT: Right.

14 MS. MATTES: And I know the Court has my
15 memorandum.

16 THE COURT: And all his awards and letters.
17 They're all very helpful. Thank you.

18 MS. MATTES: Actually, you don't have all his
19 awards and letters. We cut them down.

20 THE COURT: Oh, oh, I see.

21 MS. MATTES: I didn't want to give you everything.

22 THE COURT: Okay.

23 MS. MATTES: I didn't want to give you, you know,
24 the pictures of him as a drum major for Cornell University
25 or --

1 THE COURT: Okay. Okay.

2 MS. MATTES: -- all of that. But I did want to
3 give you a flavor of his life as a young man and as a child,
4 because he always met everybody's expectations and then
5 exceeded them.

6 As his parents were happy to tell us, and we're
7 happy to tell you, he was, as described by his family, and I
8 think our family can be said to know us and our character,
9 as intelligent, caring, dedicated, helpful, the family
10 historian, loving father to Charlotte for the period of time
11 he had that opportunity.

12 As a student, he was superlative. He gained --
13 had awards, as the Court has, in his possession. You know,
14 everything he did, he took to the highest point possible.

15 And that may say something about his compulsive
16 behavior that's referred to by Dr. Atkins.

17 He had scholarships, advanced mathematics, all
18 these things. He was the valedictorian. He was always
19 employed from the time he was in college. He always had a
20 job.

21 And I would like to put to rest this idea that he
22 targeted the school because it gave him an opportunity to be
23 around children he found attractive.

24 The job opening became -- the job became open.
25 Someone else was going to take it and then didn't and he had

1 the -- he was offered the opportunity to interview.

2 He was already -- the job he had was coming to an
3 end and so he had the chance to interview and they hired
4 him.

5 But even there, although what he did with was
6 terrible and is inexcusable, as everybody acknowledges, Mr.
7 Wolf did serve members of that school and did receive
8 important accolades there.

9 He did stuff he didn't have to do, became -- put
10 himself in charge of scheduling, in addition to all the
11 other things that he was doing there. And these things are
12 worthy of the Court's consideration for a downward variance.

13 I know that this behavior went on for a long
14 period of time, but it wasn't the only thing he did. He
15 also did good things. And it's a mixed bag for the Court.
16 He did serve others. He did benefit others.

17 And that may be the central tragedy of Mr. Wolf's
18 life, is that he was more than just his offense, but his
19 offense is very serious and the Court can't ignore it.

20 He loses all that. He loses his -- the good
21 regard of all the people who are here today, his reputation
22 in the community, his family. There are members of his
23 family he may never see again living a free life.

24 All of that goes away as a result of this offense
25 and we're asking the Court to consider that.

1 The fact that he is indeed a first offender and
2 that first offenses and being incarcerated for the first
3 time is a different experience than it is for a more
4 experienced person, someone who is more versed in the
5 criminal law.

6 We're asking the Court to --

7 THE COURT: Is it curious to you -- I'm not trying
8 to make it harder for you, but is it curious to you, or how
9 would you explain, and maybe Mr. Donato wants to, the idea
10 that when he was approached by the FBI with the Dropbox
11 information, that he either didn't fully disclose or
12 misrepresented the full extent of his involvement?

13 I mean, is that -- that's what happens, right? I
14 mean, be realistic, Judge. Right? I get you. But it is a
15 little bit different. I mean, there's no claim in here for
16 misrepresentation to a federal agent. There's no 1001.

17 MS. MATTES: Right.

18 THE COURT: So -- but how do I reconcile that?
19 It's not like a person that comes in front of me and just
20 completely falls on the sword and says, yeah, I did all
21 that, the first time I'm walking in. And by the way, I'm
22 also taking -- I'm also trying to solicit people in my
23 school. That wasn't said.

24 MS. MATTES: Mr. Donato is telling me he wants to
25 talk to you about that.

1 THE COURT: Please. That's a way to do it, Ms.
2 Mattes. Just hand it down. That's the way to do it.

3 MS. MATTES: I know. I like it, Your Honor.

4 THE COURT: That's good. It's good to go first.

5 MS. MATTES: I like it a lot. I wish we could do
6 every case together.

7 THE COURT: Right.

8 MS. MATTES: And I also want to note to the Court
9 the level of Mr. -- and he's going to talk to you about this
10 too, the level of Andrew Wolf's remorse. And this is the
11 part where you see him fall on the sword --

12 THE COURT: Okay.

13 MS. MATTES: -- starting that part.

14 THE COURT: Okay.

15 MS. MATTES: He has expressed his remorse to his
16 parents and he told Dr. Somerton that -- and I think the
17 Court read this, that he disgusts himself.

18 And, you know, Dr. Somerton's report talks about
19 the lack of insight as a concern for recidivism based on his
20 clinical experience. And that's an important qualifier and
21 that's why we have a second report from Dr. Atkins.

22 Clinical experience, as Dr. Atkins notes in his
23 December report, is not a valid predictor, if any exists,
24 for maybe having an opinion as to the future.

25 The literature actually shows that it is a very

1 poor way of predicting someone's behavior. And Dr. Somerton
2 also qualifies it later in his report.

3 But in fact, it's unsubstantiated in the
4 literature that a lack of insight is -- to the big larger
5 point, that a lack of insight is a concern for recidivism.
6 That's not reported anywhere in the psychological
7 literature.

8 And so, we're encouraging the Court to ignore that
9 because there is nothing to support it other than an opinion
10 that is itself questionable.

11 There are other aspects of Dr. Somerton's report
12 that we believe are accurate because they dovetail Dr.
13 Atkins, that Mr. Wolf does indeed need help, Mr. Wolf does
14 have a problem.

15 And the fact that he is and always will be
16 attracted to pubescent young boys is, of course, a point of
17 concern only if he acts on it. That's when it's a point of
18 concern.

19 And the reason that someone like Andrew Wolf gets
20 treatment is so that he will not act on it. That's the
21 whole point of getting treatment.

22 And he's actually undertaken that post-offense and
23 pre-sentencing. He's been in treatment as the letter
24 indicates. I'm going to suggest to the Court the fact that
25 he has done that is a basis to vary downward.

1 THE COURT: Okay.

2 MS. MATTES: And I'm also going to suggest to the
3 Court that the Court can promote respect for the law and
4 provide just punishment with the 15-year mandatory.

5 Andrew Wolf will be 57 years old, thereabout, when
6 he is released, as I've indicated in my memorandum. He can
7 be supervised for anywhere from five years to the rest of
8 his life.

9 There are other punishments that go along with
10 this that the Court, I think, has considered. I don't know
11 if it's legally considered a punishment, but he's subject to
12 financial constraints.

13 THE COURT: Right. SORNA, etc. Registration.

14 MS. MATTES: Yeah. SORNA. And he will suffer the
15 opprobrium of the public for the rest of his life. That is
16 never going to go away.

17 The kind of disdain that people feel for sexual
18 child offenders, I don't think it's paralleled in any other
19 crime, at least not in my experience.

20 The level of absolute hatred that people feel for
21 sex offenders of this nature is just unparalleled. And he
22 still lived with that.

23 And whether he's in prison or outside of prison,
24 that's what he's going to be carrying. He's not going to
25 have -- be able to find a place to live. He's not going to

1 have employment.

2 And in the intervening 15 years he's going to be
3 incarcerated. It seems to me that that does cover a lot of
4 respect for the law and just punishment.

5 And, of course, affording deterrence and
6 recidivism, 15 years is certainly enough to deter Mr. Wolf
7 individually. And it would seem to me that it would also be
8 enough if anybody sees what he's losing here as a result of
9 this should be enough to deter almost anybody who would
10 indeed be deterred.

11 And he'll be 57, which as the Court knows, as
12 people age, they become less and less likely to recidivate.
13 If you have to rely on something, that's something to rely
14 on too, but I don't -- I think you have better things to
15 rely other than that.

16 THE COURT: Yeah.

17 MS. MATTES: He does need treatment while he's
18 incarcerated. There is this sexual offender management
19 program. We're going to ask that he be designated where
20 that might be available in the wisdom of the Bureau of
21 Prisons.

22 And, of course, I know that we've talked about the
23 guideline range. Justice Kennedy said in 2003 that the
24 guidelines are too high.

25 I think he was speaking specifically to this

1 guideline and to guidelines like it, that -- and it should
2 be --

3 The Court should note that with regard to this
4 guideline and 2G2.2, that from the time this guideline was
5 changed, 2003, that there's a widening gap. As the
6 sentencing guideline has gone up, the number of variances
7 has also gone up.

8 THE COURT: Yeah.

9 MS. MATTES: There's a widening gap. Courts more
10 and more frequently are varying, not departing. We're not
11 asking the Court to do that. Varying downward.

12 In 2019, 36 percent of the 500 and some defendants
13 nationwide were sentenced strictly as production defendants.
14 36 percent of them received downward variances on non-
15 Government sponsored sentences or variances.

16 So, I can also talk to you about policy
17 statements, but I talk about that in my memo --

18 THE COURT: Yeah, I've read that.

19 MS. MATTES: -- and not going to trespass you too
20 much longer --

21 THE COURT: It's well done.

22 MS. MATTES: -- your time too much longer. But
23 that does circle back to where we are with the guideline,
24 and that is that it is not a guideline the Court needs to be
25 too concerned about.

1 We're recommending the mandatory minimum. I know
2 the Court has some more naughty questions and that's why I'm
3 reserving some more time for Mr. Donato who's better for
4 those questions.

5 THE COURT: Sure.

6 MS. MATTES: Thank you for the Court's time.

7 THE COURT: Thank you for your presentation. Mr.
8 Donato, I want to ask -- I don't want to lose track of two
9 questions for the United States.

10 MR. DONATO: I have them here, so --

11 THE COURT: No, no, no. I want to ask -- I want
12 to ask attorney for United States.

13 MR. DONATO: Oh, I'm sorry.

14 MS. HARRELL: Yes, Your Honor.

15 THE COURT: I'll get right back. Don't worry --
16 don't go too far, Mr. Donato.

17 MR. DONATO: I won't.

18 THE COURT: I heard something in the first
19 sentence there that really, really bothered me. You heard
20 what the word was.

21 Does the United States have any indication -- does
22 any agent have any indication that anyone from that
23 community has forbidden or in any way harassed anybody from
24 testifying on behalf of Mr. Wolf? That's a yes or no.

25 MS. HARRELL: No, Your Honor.

1 THE COURT: Have you received any information from
2 anyone that they felt like they could not come forward?
3 Does anybody in the SCH community, donors, alumni, does
4 anybody threaten anybody not to come forward?

5 MS. HARRELL: No. And may I say something else,
6 Your Honor related to that?

7 THE COURT: Is the answer no? Okay. Yes. You
8 may. Sure.

9 MS. HARRELL: The answer is no.

10 THE COURT: Yeah. Okay.

11 MS. HARRELL: In fact, the Government has heard
12 the opposite, which was conveyed by the mother of Minor 5,
13 that many of the victims in this community have felt extra
14 apprehension about coming to court because of the obviously
15 public nature of just being here and letting other people in
16 the community know that their child was a victim as well.

17 So that is the only concern we have heard about
18 people in the school not coming forward.

19 On top of that, because of that concern and the
20 concern that has been echoed by the families who are here
21 today, some people, teachers in the school and
22 administrators, chose not to attend today to maintain the
23 victims' privacy.

24 So as far as the Government knows, the concern at
25 the school is continuing to protect these kids as best they

1 can.

2 THE COURT: Okay. Second, what's your response to
3 the idea that all this language is just, you know -- I don't
4 like the expression used a few years ago by a candidate.
5 They called it locker room talk or trash talk. Right? We
6 all know what that is. But it's not in of itself --

7 MS. HARRELL: No.

8 THE COURT: -- actionable. But what's your view
9 of it?

10 MS. HARRELL: My view of it, Your Honor, is that
11 so much of it is obviously true. We know that from the
12 Defendant's -- the crimes. And I would submit to the Court,
13 as I discussed earlier --

14 I mean, these were the Defendant's closest
15 confidants. I would submit that every single word written
16 in there is the Defendant's truth, what he wanted to do and
17 what he did do.

18 It's remarkably detailed. It is -- the comments
19 about the 10-year-old in particular, they don't rise to the
20 level --

21 I mean, he was talking with one teacher who was
22 actually sexually assaulting his own student. He didn't
23 say, oh, me too, to, you know, gain the admiration of that
24 man. Instead, he talked about, in the Government's mind,
25 what he actually did.

1 THE COURT: Okay. All right. Thank you. Mr.
2 Donato, I appreciate your patience, sir.

3 MR. DONATO: Thank you, Your Honor. Let me begin
4 by addressing one of the questions you --

5 THE COURT: Please.

6 MR. DONATO: -- posed to us. You asked whether we
7 had a thought about whether Mr. Wolf was more or less
8 culpable than Mr. Strange.

9 And since the Court asked that directly, it's not
10 something that I would ordinarily address, but you've asked
11 me a direct question, and so I'll answer it.

12 I assume the Court means by the word culpable,
13 who's guiltier, generally speaking.

14 THE COURT: Well, you and I deal in a world
15 sometimes with guidelines that have managers, supervisors --

16 MR. DONATO: Right.

17 THE COURT: -- you know, accomplices.

18 MR. DONATO: So, I don't regard -- on the issue of
19 manager, supervisor, leader, I don't regard either one of
20 them as being more culpable than the other.

21 THE COURT: Okay.

22 MR. DONATO: As to the general conceptual idea of
23 guilt and keeping in mind that I know nothing about Mr.
24 Strange, but I do know the case against him, the thing that
25 makes this case more culpable than that case is that these

1 were Andrew Wolf's students.

2 THE COURT: Right.

3 MR. DONATO: And they -- and so he had a duty to
4 them that Mr. Strange did not have.

5 THE COURT: I appreciate your candor.

6 MR. DONATO: You also asked how to reconcile the
7 fact that when he was arrested, he didn't come clean with
8 the FBI, hedged a little bit with Dr. Somerton.

9 And the best answer I can give you for that is
10 that I've spent a lot of time with him since I began
11 representing him in October or November of 2021, and he's
12 not a liar. But he minimized it to me too.

13 And I think it's because the Andrew Wolf that I
14 know could not get himself to admit that he, the Andrew Wolf
15 that he wishes to be, could have engaged in this behavior.

16 And it took him a while and it took us a while to
17 talk to him and to confront him with things before he could
18 accept.

19 It's not that he didn't know, but he could not
20 accept what he had done. I think by the time of the change
21 of plea in June of 2022, he was there or almost there. I
22 know he's there now.

23 I want to also address the question that you asked
24 Ms. Mattes. She was talking about adults who direct other
25 adults to sexually assault children.

1 And I think the Court asked her, not in these
2 words, well, isn't that what's going on here?

3 THE COURT: At least that's the one of them.

4 MR. DONATO: The one --

5 THE COURT: Touch your brother.

6 MR. DONATO: Touch your brother. And here's what
7 I -- here's the difference that I think it is, and it may be
8 splitting hairs, but I don't think it is.

9 THE COURT: Okay.

10 MR. DONATO: When an adult facilitates a sexual
11 assault on an unwilling victim, that's one thing. When an
12 adult suggests that someone touch someone else, and the
13 person who's doing the touching is not unwilling, that's a
14 different thing. It's not a sexual assault. It didn't
15 occur --

16 THE COURT: On the brother?

17 MR. DONATO: To touch -- my understanding is he
18 touched his arm.

19 THE COURT: Okay.

20 MR. DONATO: And the little brother was asleep, so
21 he can't consent to anything.

22 THE COURT: Right.

23 MR. DONATO: Okay?

24 THE COURT: But it's his consent we're looking
25 for. It's not -- if there were more than touching the arm,

1 you would agree that's non-consensual.

2 MR. DONATO: That would be a problem. Yes. But
3 we don't have that problem here.

4 THE COURT: I got what you're saying. Okay.

5 MR. DONATO: I wanted to address something the
6 Government said about Dr. Atkins. And this is an important
7 point, I think. Dr. Atkins was candid in his report.

8 What he's saying in the report, Your Honor, is
9 that there are a group of people, there's people out there
10 who will always have a sexual preference for minors, and
11 Andrew Wolf is one of them. And so, he's honest enough to
12 tell the Court that's who he is.

13 But the mere fact that he has that preference is
14 not a crime, as the Court knows. And so, if he doesn't act
15 on that again ever in his life, then the preference is not
16 something to be held against him.

17 A few more thoughts. As to the language in the
18 messages, the Government recounts the vulgar ugly language
19 in their memo in their Exhibit C.

20 I think it's fair to say that experience shows
21 that when you're speaking anonymously on some sort of a
22 device where you can't be held responsible for your conduct,
23 that allows for lies.

24 That mere speech is not a crime, even as
25 disgusting as it is to read.

1 THE COURT: He's anonymous to Kray Strange?

2 MR. DONATO: Well, it's not like he's in the same
3 room, right? It's --

4 THE COURT: Well, that one is in the pandemic.

5 MR. DONATO: No, but -- no, but Your Honor, if I
6 may, if I'm corresponding with somebody who I know and it's
7 just going to be text messages and I'm never going to see
8 the guy, that makes it easier for me to say things that are
9 either salacious or lies or exaggerations or whatever I want
10 to say. And it's not necessarily a statement of intent.

11 THE COURT: Oh, I get that. I'm not suggesting a
12 statement of intent, but I have no basis to think -- well,
13 there are statements in there about future conduct that are
14 not statements of intent under any definition of criminal
15 law.

16 MR. DONATO: Right.

17 THE COURT: Okay. But they are indicators of what
18 could be -- see, when you say -- you have -- I agree with
19 you and Dr. Atkins about the idea that people have these --
20 people who --

21 For whatever reason, you can love who you love.
22 So, people who you love and you -- and if you have an
23 attraction to somebody that's a certain age, and as
24 different as it is from what I may think of, that's their
25 view.

1 But the difference here I want to ask is, is the
2 idea that there's these messages saying, you know, how I
3 would love to rape that, or I can't wait to fuck that kid.
4 Those kind of things.

5 MR. DONATO: Yeah. It's -- as I said, Your Honor,
6 it's ugly.

7 THE COURT: Could you just throw that away?

8 MR. DONATO: It's ugly and vulgar. Well, I don't
9 throw it away. I throw it away for a reason.

10 THE COURT: Okay. I know. Yeah. Right.

11 MR. DONATO: And the reason is because Andrew Wolf
12 has spent his adult life around children.

13 THE COURT: Yeah.

14 MR. DONATO: And there's no allegation that he
15 touched any of them.

16 THE COURT: Okay.

17 MR. DONATO: So, if he was going to do that, if he
18 was really interested in doing that, it would've happened by
19 now. And if it happened even slightly, the Government
20 would've charged it.

21 THE COURT: Okay.

22 MR. DONATO: You said something interesting
23 earlier today that the naturalization service is one of the
24 best things a judge gets to do.

25 THE COURT: Yeah.

1 MR. DONATO: I think sentencing must be among the
2 most difficult things a judge is called upon to do. But
3 what I want to say to you this afternoon is that sentencing
4 is either a rational exercise or a passionate one, but it
5 can't be both.

6 THE COURT: It can't be the second.

7 MR. DONATO: And the Court should not consider not
8 --

9 THE COURT: It's not going to be the second.

10 MR. DONATO: Yeah. That's the point I was trying
11 to make. Thank you, Your Honor.

12 The Court should not consider or should give very
13 little weight to the messages that were sent back and forth
14 and the language that's in them. Because the sentence, as
15 the Court just said, cannot be based on outrage at what
16 someone said.

17 And it has to be based on a rational and
18 dispassionate analysis of 3553(a) factors and all the other
19 factors the Court is required to consider.

20 So, the question -- and by the way, the reason I'm
21 doing this is because I'm trying to be helpful, I think, and
22 if I'm not, please tell me.

23 But the question, it seems to me, is what's the
24 necessity? What does this case present as a necessity?
25 What is sufficient, but not greater than necessary to serve

1 the purposes of sentencing?

2 Deterrence and rehabilitation have been addressed
3 in both memos, and there seems to be little disagreement
4 about people have to be deterred, he's got to be deterred,
5 he needs treatment.

6 So, rehabilitation and deterrence, both general
7 and specific, we don't have too much disagreement about, but
8 retribution. That's the difficult one.

9 The parties seem to be in agreement about the
10 other two, but we don't know where we can agree on
11 retribution.

12 And the problem is -- the problem that that
13 presents is that retribution is the most difficult thing to
14 quantify. How do you put the scales back in balance for
15 society? How much does he deserve?

16 And the reason that -- another reason that it's so
17 difficult to determine is because if you think about it,
18 retribution -- I'm sorry, rehabilitation and deterrence are
19 forward looking.

20 THE COURT: Yeah.

21 MR. DONATO: Retribution is backward looking. So
22 how to decide? Well, it requires the Court to consider all
23 of the things that you've heard here today and it requires
24 the Court to have a thoroughgoing understanding of Andrew
25 Wolf, the person he was, including all the whats of this

1 case, but not limited to those.

2 One way would be to look to the state
3 jurisdiction. If this were prosecuted in state court, would
4 be what is called in the state guidelines an offense gravity
5 score of a 9 or a 10.

6 Each count would be 12 to 24 months. And if
7 there's eight of them, it would be, you know, somewhere --

8 Assuming there's an equal number of aggravating
9 factors, which is zero here, and an equal number of
10 mitigating factors, which is several, the likely sentence
11 would be somewhere around 12, 13, 14 years.

12 And Pennsylvania, as you know, has indeterminate
13 sentencing. So, it would be 12 to 24 or 12 -- you know.

14 I argue to you that we ask for 15 years because
15 that's the least we can ask for, but it's more than Andrew
16 Wolf really needs.

17 I argue to you that if you look at this kid's life
18 and what he's been through and what he's done, and the
19 difficulty and loneliness that someone who has this
20 affliction --

21 And I'm calling it an affliction. I know it's
22 not, but it seems like it has afflicted him.

23 That person is never going to do this again. If
24 you gave it to him to do over again, and he knew what he was
25 going to do to his parents and his sister and his daughter,

1 that would be enough to deter him.

2 THE COURT: Mr. Donato, he wrote that he knew it
3 was illegal. He knew it was illegal.

4 MR. DONATO: Of course, he knew. Of course. I'm
5 not --

6 THE COURT: Why do I think that would -- tell me
7 how I answer that. He knew it was illegal. He said this is
8 -- he said, this is why it's illegal.

9 MR. DONATO: Yeah. He knew it was illegal.

10 THE COURT: It's not like the guys that come
11 before me that you have the privilege of representing that
12 say I never knew. I don't know. My grandson got these
13 pictures. I have no idea.

14 MR. DONATO: Well, Your Honor, I'm not suggesting
15 he didn't know it was illegal.

16 THE COURT: Okay.

17 MR. DONATO: I'm suggesting that if he knew while
18 he was doing it. This is the principle of deterrence,
19 right? And we can argue about whether any --

20 THE COURT: And he did know when he was getting
21 them. He knew what he was getting was illegal

22 MR. DONATO: If he knew that he was going to get
23 arrested, that he was going to have to hire a lawyer, that
24 he was going to be served --

25 THE COURT: Are you suggesting he didn't?

1 MR. DONATO: I don't think anybody appreciates all
2 of the consequences of their actions when they're doing
3 this. Because, first of all, they don't think they're going
4 to get caught, right?

5 Nobody's going to go rob a bank and say, I'm going
6 to rob a bank because someone else got five years, so I can
7 do five years.

8 THE COURT: So, it gets so brazen that the emails
9 are sent to a Springside Chestnut Hill email.

10 MR. DONATO: Yeah.

11 THE COURT: Is that just reckless or is that I
12 want to get caught?

13 MR. DONATO: That's a very interesting question,
14 and with your permission, I'll address it.

15 THE COURT: Please.

16 MR. DONATO: I wonder -- I've been doing this for
17 43 years and I wonder all the time why somebody would do
18 something. And I mean, it just has always confounded me.
19 Before I became a lawyer, I never knew that there was any of
20 this ugliness in the world.

21 My concern is that Andrew Wolf, because he was gay
22 in a situation where it was difficult --

23 THE COURT: Right.

24 MR. DONATO: -- I'm concerned that he started to
25 hate himself and did things that were self-destructive --

1 THE COURT: Okay.

2 MR. DONATO: -- because he just wasn't happy with
3 who he was. Now, I'm a lawyer, not a psychologist.

4 THE COURT: No.

5 MR. DONATO: Just answering the best I can.
6 That's my read on it. And I'll close with this unless the
7 Court has any other --

8 THE COURT: No. No.

9 MR. DONATO: -- questions. There are many aspects
10 of this. Regardless of how many years Andrew Wolf gets,
11 they're a life sentence.

12 He'll be a convicted sex offender for the rest of
13 his life. He'll be on supervised release for the bulk of,
14 if not the rest of his life.

15 And everyone will know it. Every potential
16 employer, all of his friends, all of his family members.
17 His daughter will know it. His community. He'll live with
18 this guilt for the rest of his life.

19 He will tell you this, but I'll give you a
20 preview. When we went over the victim impact with him, he
21 wept. He's going to have to live with that for the rest of
22 his life.

23 That kids that he knew had their lives materially
24 altered in a very unfavorable way. He's going to have to
25 live with that.

1 Your Honor, we don't come here and say this isn't
2 a bad offense. We don't come here and say that -- you know,
3 anything about the alleged victims or the damage that Andrew
4 Wolf caused.

5 Life sentences are given out, you know, crimes are
6 graded and crimes are of different gradation. And we submit
7 to you that because of who he is and because of all the
8 other factors that we've brought to the Court's attention,
9 the Court should impose the 15-year mandatory minimum and
10 nothing more.

11 THE COURT: Thank you, sir. Mr. Wolf, you have
12 the right of the United States Constitution to -- and
13 Congress to present any statement you wish to present to me
14 in mitigation or anything you wish to say to me for me to
15 consider.

16 I assure you, Mr. Wolf, as I told you at the plea,
17 I don't know a judge who makes up their mind before they
18 walk into the room, nor have I made up my mind as yet. I
19 want to hear from you. I've heard from very talented
20 lawyers on all sides, but I want to hear from you.

21 Do you wish -- you don't have to, though. Do you
22 wish to present -- do you wish to say anything to me?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: All right. You may do so. You may
25 sit or stand as you feel comfortable.

1 THE DEFENDANT: I prepared something to say and
2 wrote this weeks ago, but as Mr. Donato just said, I haven't
3 gotten an opportunity to read the victim impact statements
4 except for one excerpt that was in the pre-sentencing
5 report.

6 THE COURT: Okay.

7 THE DEFENDANT: And of course --

8 THE COURT: I misunderstood. I thought you had.
9 Okay.

10 THE DEFENDANT: And then, of course, I heard what
11 was said today. And so, based on that, I'm probably going
12 to have to add a little bit from what I prepared.

13 THE COURT: Please.

14 THE DEFENDANT: I'd say even up until recently, I
15 was still thinking about coming into this day, well, with a
16 lot of different things in my mind and a lot of different
17 feelings, of course, but one of which was, you know, hoping
18 for the minimum possible sentence both for myself and for
19 the impact that it has on my loved ones.

20 But after hearing what Diana shared today, that
21 broke me. I thought I'd already come to understand over
22 these 16 months more deeply the consequences of my actions,
23 but that drives it home and I will think about that every
24 day for the rest of life.

25 The parents that knew me as their son's teacher

1 knew me to be a very caring person for them, and that wasn't
2 fake. I cared. I cared deeply for their wellbeing, and to
3 hear the impact this had, at least on your son, hurting
4 himself, wanting to kill himself, and the impact on your
5 family.

6 I never dreamed --

7 UNIDENTIFIED: Address her.

8 THE COURT: I'm okay. If you want to talk to the
9 -- you may turn as long as you can all see. I'm fine.
10 Thank you though, Officer.

11 THE DEFENDANT: I never dreamed that my actions
12 would have this impact. I know there's very little or
13 nothing I can say to make any of you feel any better, but I
14 still want to apologize very deeply.

15 THE COURT: Sir, it's creating an issue. Yeah.
16 Why don't you turn and address me, sir?

17 THE DEFENDANT: Okay.

18 THE COURT: I appreciate what you're trying to do,
19 but it's -- you're creating -- it's -- you're creating --
20 speak to me, they'll hear you.

21 THE DEFENDANT: Okay.

22 THE COURT: Thank you, sir. I'm mindful of what
23 you're trying to do, though.

24 THE DEFENDANT: I want to apologize to the victims
25 of my crimes. What I did was so deeply wrong on so many

1 levels.

2 I'm sorry for all the damage I caused all of you,
3 from embarrassment to fear and long-term consequences,
4 including not feeling like you can trust people.

5 And what I heard today about not being able to
6 return to the school and every time entering the school,
7 that's what you will think about.

8 And to the families and parents, watching your
9 child go through this ordeal when all you want to do is
10 protect them from harm.

11 To my colleagues and the whole SCH community, I'm
12 so sorry for my actions and the betrayal I inflicted on
13 everyone. So many of you supported me in my career, and I
14 feel like I took that all for granted and destroyed all the
15 good work I did over almost two decades of teaching.

16 The most important part of my job is to protect
17 children. I did the complete opposite.

18 To my family and my loved ones, my friends, even
19 with all of you that are standing by me through all of this,
20 I know I've done damage to our relationships, some of which
21 might not ever be able to be repaired.

22 And I know you have a range of feelings,
23 confusion, disappointment, anger.

24 Mom and dad, you were and still are the best
25 parents I could imagine having and I repaid you my horrible

1 actions and broke your hearts. I want you to know, you did
2 nothing wrong in raising me. This is all on me.

3 To my daughters, it's hard to find the words. I
4 ache all day knowing I'm not there with you, for you, right
5 now. I failed as a father with the most important
6 responsibility, simply being there. I'm so sorry for this
7 and will be every day for the rest of my life. I miss you
8 and love you so much.

9 How could I have committed these crimes? It's the
10 question I ask myself countless times every day, a question
11 that keeps me up at night. Was it an addiction? I'm
12 working with Dr. Atkins to figure it out.

13 One thing I know right now is that I let things
14 spiral. I was selfish. I was so selfish and so stupid. I
15 don't know why, but I did not picture the consequences of my
16 actions.

17 And I don't mean my punishment. I mean affecting
18 the lives of these children and their families and my
19 family.

20 I know I would never do anything like this again.
21 My whole life I've strived to do the right thing. I had
22 strived to do the right thing. I hate to see people hurting
23 for any reason.

24 I put blinders on and made unspeakable decisions.
25 I made the most regretful decisions in my life and it

1 disgusts me every time I think about it.

2 I'm ready to accept my consequences and I know
3 that many of the consequences that blowing up my life has
4 caused will be with me forever, ruining my career, ruining
5 relationships, all the lost time with loved ones.

6 But if I'm fortunate enough, I do look forward to
7 rejoining with my family someday and finding some way to
8 give back to society from all that I've taken.

9 THE COURT: Anything further, Mr. Wolf?

10 THE DEFENDANT: No.

11 THE COURT: Mr. Donato?

12 MR. DONATO: Nothing further, Your Honor.

13 (Designated portion concluded at 2:01 p.m.)

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C E R T I F I C A T I O N

I, Valori Weber, court approved transcriber,
certify that the foregoing is a correct transcript from
the official electronic sound recording of the
proceedings in the above-entitled matter, and to the best
of my ability.

/s/ Valori Weber

Valori Weber

Dated: July 9, 2023